

SENATE BILL No. 491

DIGEST OF INTRODUCED BILL

Citations Affected: IC 1-1-4-7; IC 4-12-1; IC 6-1.1; IC 6-2.5; IC 6-3.5; IC 14-23-3-3; IC 15-1.5; IC 36-1; IC 36-1.3; IC 36-4-1-1; IC 36-8.5; IC 36-12.

Synopsis: Property tax replacement. Eliminates the authority of the state and political subdivisions to impose a property tax after December 31, 2005, except to pay debt service obligations and public safety services. Imposes a special assessment for public safety services on residential property and property otherwise exempt from property taxes (other than certain governmental and religious property) instead of an ad valorem property tax. Eliminates most property tax deductions and credits, except for a deduction for the elder, blind, and disabled and a deduction for inventory. Extends the sales tax to all services other than medical services and certain other services. Provides for the distribution of the revenue to political subdivisions. Transfers oversight of local budgets from the department of local government finance to the budget agency. Provides an optional method to reorganize political subdivisions. Makes related changes. Repeals property tax credits, property tax deductions, remonstrance provisions that are superseded and replaced by provisions in this act, and certain laws granting authority to the department of local government finance.

Effective: Upon passage; July 1, 2004; July 1, 2005; December 1, 2005; January 1, 2006; February 1, 2006.

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January 13, 2004, read first time and referred to Committee on Finance.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 491

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 1-1-4-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2004]: **For purposes of construing all Indiana statutes,**
4 **"consolidated city" refers to a first class city that has become a**
5 **consolidated city under IC 36-3-1.**

6 SECTION 2. IC 4-12-1-2 IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter
8 unless a different meaning appears from the context:

9 (a) The word "committee" means the budget committee.

10 (b) The word "director" or the term "budget director" means the
11 person who is director of the budget agency.

12 (c) The term "appointing authority" means the head of ~~an~~ **a state**
13 agency. ~~of the state.~~

14 (d) ~~The terms "agency of the state" or "agencies of the state" or~~
15 **"State agency" or "state agencies" mean and include means** every
16 office, officer, board, commission, department, division, bureau,
17 committee, fund, agency, and, without limitation by reason of any



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enumeration herein, every other instrumentality of the state of Indiana, now existing or which may be created hereafter; every hospital, every penal institution and every other institutional enterprise and activity of the state of Indiana, wherever located; the universities and colleges supported in whole or in part by state funds; the judicial department of the state of Indiana; and all non-governmental organizations receiving financial support or assistance from the state of Indiana; but shall not mean nor include cities, towns, townships, school cities, school towns, school townships, school districts, nor other municipal corporations or political subdivisions of the state.

(e) The terms "budget bill," or "budget bills," shall mean a bill for an act, or two (2) or more such bills, prepared as authorized in this chapter, by which substantially all of the appropriations are made that are necessary and required to:

(1) carry on state government; **and**

(2) **make distributions to political subdivisions;**

for the budget period, if and when such bill is, or such bills are, enacted into law.

(f) The term "budget report" shall mean a written explanation of the budget bill or bills, and a general statement of the reasons for the appropriations therein and of the sources and extent of state income to meet such appropriations, together with such further parts as are required by law.

(g) The term "budget period" means that period of time for which appropriations are made in the budget bill or budget bills.

SECTION 3. IC 4-12-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. When requested so to do by the governor, or by the budget director, other ~~agencies of the~~ **agencies and political subdivisions** shall assist the budget agency in the effective discharge of its duties and functions. Any such ~~state~~ **agency or political subdivision** shall employ its equipment and facilities to assist the budget agency to prepare the data and information for a recommended or final budget report and budget bill. The budget agency shall create and prepare forms required for the administration of this chapter, and forms necessary for machine accounting to permit accumulation of statistical data and information required by the budget agency and the budget committee. Every state ~~agency~~ **agency and political subdivision**, except the universities and colleges, shall adopt such forms and reporting procedures as are created and prepared by the budget agency for administration and execution of appropriations made by law, when such forms and procedures have been otherwise approved in the manner required by law.

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SECTION 4. IC 4-12-1-7 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) On or before the first day
 of September, in any year that the budget director makes a request
 under this chapter, each and every state agency **and political
 subdivision** shall prepare and file with the budget agency on forms
 designated by it a written statement, showing in detail the following:

(1) The several amounts actually expended for the administration,
 operation, maintenance and support of such state agency **or
 political subdivision** for at least the two (2) fiscal years which
 ended immediately preceding such first day of September, and the
 several amounts estimated by such state agency **or political
 subdivision** to be actually expended for the fiscal year to end on
 June 30 following the next regular session of the general
 assembly; and the actual and estimated income of such state
 agency **or political subdivision** for like periods.

(2) An estimate of the necessary expenditures of such state
 agency **or political subdivision** for the proposed budget period
 as specified in the budget director's request beginning on the first
 day of July of the calendar year next succeeding the filing of such
 statement; such estimates or requests for appropriations to defray
 the estimated expenditures of such ~~department~~ **state agency or
 political subdivision** shall be set forth separately for each fiscal
 year; and the estimated income of such state agency **or political
 subdivision** for like period.

(3) A written statement showing concisely the reasons for all
 estimated expenditures and requests for appropriations
 contemplated in ~~the preceding~~ subdivision (2), showing
 particularly the reason for any requested increase or decrease over
 former appropriations.

(4) Proposals for expenditures for new projects, special purposes
 or objects, construction, additions, building, improvements,
 undertakings or expansion of the work of any state agency **or
 political subdivision** requiring additional expenditures and
 capital outlays.

(5) Any other information related to the subject matter of the
 preceding subdivisions of this subsection (a), or otherwise
 required to effect the purposes of this chapter, to the extent the
 budget agency or budget committee deems such information
 necessary or required, including when requested, citations to any
 statutes regulating, governing or providing for continuing annual
 appropriations, fees or other sources of income.

(b) The budget agency shall examine such written statements and

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1 review and analyze all of the information, data, estimates, requests for
 2 appropriations and for other authorizations to spend state funds as the
 3 several state agencies **and political subdivisions** have prepared and
 4 filed them. As promptly as possible the budget agency shall complete
 5 its examination, review and analysis and shall prepare
 6 recommendations for a budget report, and from time to time shall
 7 submit these to the budget committee for its consideration at one of its
 8 meetings.

9 SECTION 5. IC 4-12-1-8 IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) In preparing the various
 11 estimates for the budget report, the budget agency may require any
 12 state agency **or political subdivision** to prepare and file with it
 13 additional or more detailed information and the director, or any duly
 14 authorized employee of the budget agency, may enter and investigate
 15 the operation of any state agency **or political subdivision**, and may
 16 examine its records as authorized by the director. A written report of
 17 the investigation and examination shall be prepared and filed in the
 18 budget agency. The foregoing report shall be made available to the
 19 budget committee for review and to aid in its determination of the
 20 several amounts or estimates for appropriations the budget committee
 21 may recommend for inclusion in the budget report and in the budget
 22 bills prepared pursuant to the authority of this chapter.

23 (b) Upon its own initiative or at the request of any state agency **or**
 24 **any political subdivision**, the budget committee may arrange a hearing
 25 or hearings devoted to any matter pertinent to the preparation of a
 26 budget report and budget bill at which representatives of the interested
 27 state agency, **political subdivision**, or any citizen, may appear and be
 28 heard. As allowed by the committee's policies and procedures, general
 29 information and relevant and material evidence, and explanation and
 30 argument may then be presented to the budget committee members that
 31 will assist them in the performance of their respective duties under this
 32 chapter.

33 SECTION 6. IC 4-12-1-9 IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The budget agency shall
 35 assist the budget committee in the preparation of the budget report and
 36 the budget bill, using the recommendations and estimates prepared by
 37 the budget agency and the information obtained through investigation
 38 and presented at hearings. The budget committee shall consider the
 39 data, information, recommendations and estimates before it and, to the
 40 extent that there is agreement on items, matters and amounts between
 41 the budget agency and a majority of the members of the budget
 42 committee, the committee shall organize and assemble a budget report

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1 and a budget bill or budget bills. In the event the budget agency and a
 2 majority of the members of the budget committee shall differ upon any
 3 item, matter, or amount to be included in such report and bills, the
 4 recommendation of the budget agency shall be included in the budget
 5 bill or bills, and the particular item, matter or amount, and the extent
 6 of and reasons for the differences between the budget agency and the
 7 budget committee shall be stated fully in the budget report. Before the
 8 second Monday of January, in the year immediately after preparation,
 9 the budget report and the budget bill or bills shall be submitted to the
 10 governor by the budget committee. The governor shall deliver to the
 11 house members of the budget committee such bill or bills for
 12 introduction into the house of representatives.

13 (b) Whenever during the period beginning thirty (30) days prior to
 14 a regular session of the general assembly the budget report and budget
 15 bill or bills have been completed and printed and are available for
 16 distribution, upon the request of a member of the general assembly an
 17 informal distribution of one (1) copy of each such document shall be
 18 made by the budget committee to such members. During business
 19 hours, and as may be otherwise required during sessions of the general
 20 assembly, the budget agency shall make available to the members of
 21 the general assembly so much as they shall require of its accumulated
 22 staff information, analyses and reports concerning the fiscal affairs of
 23 the state and the current budget report and budget bill or bills.

24 (c) The budget report shall include at least the following five (5)
 25 parts;

26 (1) A statement of budget policy, including but not limited to
 27 recommendations with reference to the fiscal policy of the state
 28 **and its political subdivisions** for the coming budget period, and
 29 describing the important features of the budget.

30 (2) A general budget summary setting forth the aggregate figures
 31 of the budget to show the total proposed expenditures and the
 32 total anticipated income, and the surplus or deficit **of the state**
 33 **and its political subdivisions.**

34 (3) The detailed data on actual receipts and expenditures for the
 35 previous fiscal year or two (2) fiscal years depending upon the
 36 length of the budget period for which the budget bill or bills is
 37 proposed, the estimated receipts and expenditures for the current
 38 year, and for the ensuing budget period, and the anticipated
 39 balances at the end of the current fiscal year and the ensuing
 40 budget period. Such data shall be supplemented with necessary
 41 explanatory schedules and statements, including a statement of
 42 any differences between the recommendations of the budget

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agency and of the budget committee.

(4) A description of the capital improvement program for the state, **a summary of the capital improvement programs of the political subdivisions**, and an explanation of ~~its~~ **their** relation to the budget.

(5) The budget bills.

(d) The budget report shall cover and include all special and dedicated revenue funds as well as the general revenue fund and shall include the estimated amounts of federal aids, for whatever purpose provided, together with estimated expenditures therefrom.

(e) **The amount that is proposed to be appropriated in the budget period for distribution to political subdivisions shall be aggregated in the budget bill and listed as an appropriation to the state agency that will make the distribution to the political subdivisions. It is not the intent of the general assembly that appropriations from the property tax replacement fund be made through a general formula in conformity with the budgets approved by the budget agency under IC 36-1.3 and not by specific appropriations to each political subdivision.**

(f) The budget agency shall furnish the governor with any further information required concerning the budget, and upon request shall attend hearings of committees of the general assembly on the budget bills.

SECTION 7. IC 4-12-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) In addition to cooperating in the preparation of a recommended budget report and budget bill as herein provided, the chief functions of the budget committee shall be to serve as liaison between the legislative and executive, including the administrative branches of government and to provide information to the general assembly with respect to the management of state **and local** fiscal affairs so that it may have a better insight into the budgetary and appropriation needs of the various state agencies **and political subdivisions**. To perform such functions the budget committee may:

(1) Select a chairman and such other officers as the members desire, and hold meetings at stated intervals, and on call of the chairman.

(2) Make such policies and procedures concerning its organization and operation as are deemed advisable but IC 4-22-2 shall not apply thereto.

(3) Have access to all files, information gathered and reports of the budget agency.

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(4) Inspect any state agency **or political subdivision** in order to obtain accurate information concerning its budgetary needs and fiscal management, and examine all of its records and books of account.

(5) Subpoena witnesses and records, examine witnesses under oath, hold hearings, and exercise all the inherent powers of an interim legislative committee for study of budgetary affairs and fiscal management.

(6) Attend meetings of appropriate committees of the general assembly and furnish it with information and advice.

(7) Make such general or special reports to the budget agency and to the general assembly as are deemed advisable.

(b) The salary per diem of the legislative members of the budget committee is seventy dollars (\$70.00) per day each for the time necessarily employed in the performance of their duties, and as provided by law all necessary traveling and hotel expenses, in addition to their legislative salary and legislative expense allowance, fixed by law as members of the general assembly. However, the salary per diem provided in this section is in lieu of any other per diem allowances available for the same day to legislative members of the budget committee in their capacity as members of other legislative committees or commissions.

SECTION 8. IC 6-1.1-2-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. Notwithstanding any other law, except as provided in sections 9 and 10 of this chapter, a political subdivision may not impose an ad valorem property tax levy that is first due and payable after December 31, 2005.**

SECTION 9. IC 6-1.1-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. The governing body of a political subdivision may levy property taxes first due and payable in 2006 and all succeeding calendar years sufficient to fund the debt service fund of the political subdivision.**

SECTION 10. IC 6-1.1-2-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. The governing body of a political subdivision may levy property taxes first due and payable in 2006 and all succeeding calendar years to pay public safety costs (as defined in IC 36-8.5-1-2) on tangible property other than property subject to the public safety special assessment under IC 36-8.5.**

SECTION 11. IC 6-1.1-10-44 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2006]: **Sec. 44. Notwithstanding any other law, all exemptions from ad valorem property taxes enacted by the general assembly before March 16, 2004, are void for property taxes payable after December 31, 2005, except the following:**

- (1) Exemptions provided in this chapter.
- (2) Exemptions not provided by this chapter but required under the Constitution of the United States, federal law, or the Constitution of the State of Indiana.

SECTION 12. IC 6-1.1-12-43 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2006]: **Sec. 43. (a) Notwithstanding any other law, all deductions from the assessed valuation of property that:**

- (1) are used to impose an ad valorem property tax; and
- (2) that were enacted by the general assembly before March 16, 2004, are void for property taxes payable after December 31, 2005, except the deductions described in subsection (b).

(b) The following deductions apply for property taxes first due and payable after December 31, 2005:

- (1) Deductions provided in this chapter.
- (2) Deductions not provided by this chapter but required under the Constitution of the United States, federal law, or the Constitution of the State of Indiana.
- (3) Depreciation allowances permitted under the rules of the department of local government finance to reflect the true tax value of property.

SECTION 13. IC 6-1.1-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2. (a) Before January 1, 2006, the state may not impose an ad valorem property tax rate on tangible property in excess of thirty-three hundredths of one cent (\$0.0033) on each one hundred dollars (\$100) of assessed valuation. The state tax rate is not subject to review by county boards of tax adjustment or county auditors.**

(b) The state may not impose an ad valorem property tax rate on tangible property after December 31, 2005.

(c) This section does not apply to political subdivisions of the state.

SECTION 14. IC 6-1.1-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 9. (a) On or before October 15 of each year, each county auditor shall, make a settlement with the department as to the aggregate amount of property**

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tax replacement credits extended to taxpayers in the auditor's county during the first eight (8) months of that same year. On or before December 31 of each year, each county auditor shall make a settlement with the department along with the filing of the county auditor's December settlement as to the aggregate amount of property tax replacement credits extended to taxpayers in the auditor's county during the last four (4) months of that same year. If the aggregate credits allowed during either period exceed the property tax replacement funds allocated and distributed to the county treasurer, ~~for that same period;~~ as provided in ~~sections~~ **section 4 of this chapter (repealed), and section 5 of this chapter (repealed), and section 13 of this chapter**, then the department shall certify the amount of the excess to the auditor of state who shall issue a warrant, payable from the property tax replacement fund, to the treasurer of the state ordering the payment of the excess to the county treasurer. If the distribution exceeds the aggregate credits, the county treasurer shall repay to the treasurer of the state the amount of the excess, which shall be redeposited in the property tax replacement fund.

~~(b) In making the settlement required by subsection (a); the county auditor shall recognize the fact that any loss of revenue resulting from the provision of homestead credits in excess of the percentage credit allowed in IC 6-1.1-20.9-2(d) must be paid from county option income revenues.~~

~~(c)~~ **(b)** Except as otherwise provided in this chapter, the state board of accounts with the cooperation of the department shall prescribe the accounting forms, records, and procedures required to carry out the provisions of this chapter.

SECTION 15. IC 6-1.1-21-10, AS AMENDED BY P.L.192-2002(ss), SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. (a) There is established a property tax replacement fund board to consist of the commissioner of the department, the commissioner of the department of local government finance, the director of the budget agency, and two (2) ex officio nonvoting representatives of the general assembly of the state of Indiana. The speaker of the house of representatives shall appoint one (1) member of the house as one (1) of the ex officio nonvoting representatives, and the president pro tempore of the senate shall appoint one (1) senator as the other ex officio nonvoting representative, each to serve at the will of the appointing officer. The commissioner of the department shall be the chairman of the board, and the director of the budget agency shall be the secretary of the board.

~~(b) Except as provided in section 10.5 of this chapter;~~ The schedule

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to be used in making distributions to ~~county treasurers during the periods set forth in section 4(b) of political subdivisions under section 13~~ this chapter is as follows:

January	0.00%
February	0.00%
March	16.70%
April	16.70%
May	0.00%
June	0.00%
July	16.60%
August	0.00%
September	16.70%
October	16.70%
November	16.60%
December	0.00%

The board may authorize the department to distribute the estimated distributions to counties earlier than what is required under section 4(b) of this chapter.

(c) The board is also authorized to transfer funds from the property tax replacement fund for the purpose of providing financial aid to school corporations as provided in IC 21-3.

SECTION 16. IC 6-1.1-21-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13. (a) Subject to subsection (g), the department of state revenue shall distribute the amount determined under the formula in IC 21 from the property tax replacement fund to each school corporation.**

(b) The department of state revenue shall distribute the amount determined by the budget agency from the property tax replacement fund to each political subdivision other than a school corporation.

(c) The budget agency shall annually determine the amount to be distributed to each political subdivision other than a school corporation under this section. The budget agency shall notify the department of state revenue, the affected political subdivision, and the county auditor of each county in which the political subdivision is located of the amount of the distribution not later than March 1 of the year of the distribution.

(d) Subject to subsections (f) and (g), for 2006, the amount of the distribution to a political subdivision other than a school corporation is equal to the amount determined under STEP THREE of the following formula:

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STEP ONE: Determine the amount equal to the sum of the political subdivision's ad valorem property tax levies for 2005, as the levies were determined by the department of local government finance in fixing the political subdivision's budget, levy, and rate for 2005 under IC 6-1.1-17, adjusted to eliminate the effects of temporary excessive levy appeals and any other temporary adjustments made by the department of local government finance to the working maximum levy for 2005, as determined by the budget agency.

STEP TWO: Multiply the STEP ONE amount by the income growth index for 2006 determined under IC 36-1.2-2-17.

STEP THREE: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The amount of the political subdivision's budget not funded by other sources, as determined by the budget agency.

(e) Subject to subsections (f) and (g), for 2007 and each year thereafter, the amount of the distribution to a political subdivision other than a school corporation is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the amount distributed to the political subdivision under this section in the immediately preceding year.

STEP TWO: Multiply the STEP ONE amount by the income growth index for the ensuing budget year determined under IC 36-1.2-2-17.

STEP THREE: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The amount of the political subdivision's budget not funded by other sources, as determined by the budget agency.

(f) The amount distributed under subsection (d) or (e) is increased by the amount of any increase in expenditures that is approved by the budget agency under IC 36-1.3 and not funded by other sources, as determined by the budget agency.

(g) If the total amount of distributions required under this section in a year exceeds the amount that will be deposited in the property tax replacement fund in the year, as determined by the budget agency, the amount to be distributed to a political subdivision under this section to each:

(1) school corporation during the last six (6) months of the year shall be reduced by the same dollar amount per ADM (as

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adjusted by IC 21-3-1.6-1.1); and

(2) political subdivision other than a school corporation during the last six (6) months of the year shall be reduced in an amount that is in proportion to the part of the political subdivision's budget funded by distributions under this section relative to the total of all political subdivision budgets (excluding school corporations) funded by distributions under this section;

so that the total reductions equal the amount of the excess.

SECTION 17. IC 6-2.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 2. (a) "Retail transaction" means a transaction of a retail merchant that constitutes:

- (1) selling at retail as described in IC 6-2.5-4-1; ~~that constitutes~~
- (2) making a wholesale sale as described in IC 6-2.5-4-2; or
- (3) ~~that is a~~ transaction described in any other section of IC 6-2.5-4.

(b) "Retail unitary transaction" means a unitary transaction that is also a retail transaction.

SECTION 18. IC 6-2.5-1-5, AS AMENDED BY P.L.257-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 5. (a) Except as provided in subsection (b), "gross retail income" means the total gross receipts, of any kind or character, received in a retail transaction, including cash, credit, property, and services, for which tangible personal property **or a service** is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

- (1) the seller's cost of the property sold;
- (2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- (4) delivery charges;
- (5) installation charges; or
- (6) the value of exempt personal property **or services** given to the purchaser where taxable and exempt personal property **or services** have been bundled together and sold by the seller as a single product or piece of merchandise.

(b) "Gross retail income" does not include that part of the gross receipts attributable to:

- (1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property

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given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a promissory note or an installment sales contract;

(3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(4) interest, financing, and carrying charges from credit extended on the sale of personal property **or services** if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(c) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 19. IC 6-2.5-1-25.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: **Sec. 25.7. As used in this article, "service" does not include:**

(1) a lease or rental; or

(2) labor furnished to a person by the person's employee.

SECTION 20. IC 6-2.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 1. For purposes of this chapter:

(a) "Use" means the exercise of any right or power of ownership over tangible personal property **or to employ services for their intended purpose.**

(b) "Storage" means the keeping or retention of tangible personal property in Indiana for any purpose except the subsequent use of that property solely outside Indiana.

(c) "A retail merchant engaged in business in Indiana" includes any retail merchant who makes retail transactions in which a person acquires personal property **or services** for use, storage, or consumption in Indiana and who maintains:

(1) an office, place of distribution, sales location, sample location, warehouse, storage place, or other place of business which is located in Indiana and which the retail merchant maintains, occupies, or uses, either permanently or temporarily, either

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1 directly or indirectly, and either by ~~himself~~ **the retail merchant**
 2 or through an agent or subsidiary; or

3 (2) a representative, agent, salesman, canvasser, or solicitor who,
 4 while operating in Indiana under the authority of and on behalf of
 5 the retail merchant or a subsidiary of the retail merchant, sells,
 6 delivers, or takes orders for sales of tangible personal property **or**
 7 **services** to be used, stored, or consumed in Indiana.

8 (d) Notwithstanding any other provision of this section, tangible or
 9 intangible property that is:

10 (1) owned or leased by a person that has contracted with a
 11 commercial printer for printing; and

12 (2) located at the premises of the commercial printer;

13 shall not be considered to be, or to create, an office, a place of
 14 distribution, a sales location, a sample location, a warehouse, a storage
 15 place, or other place of business maintained, occupied, or used in any
 16 way by the person. A commercial printer with which a person has
 17 contracted for printing shall not be considered to be in any way a
 18 representative, an agent, a salesman, a canvasser, or a solicitor for the
 19 person.

20 SECTION 21. IC 6-2.5-3-2 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 2. (a) An excise
 22 tax, known as the use tax, is imposed on the storage, use, or
 23 consumption of tangible personal property **or services** in Indiana if the
 24 property **or services** was acquired in a retail transaction, regardless of
 25 the location of that transaction or of the retail merchant making that
 26 transaction.

27 (b) The use tax is also imposed on the storage, use, or consumption
 28 of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or
 29 watercraft:

30 (1) is acquired in a transaction that is an isolated or occasional
 31 sale; and

32 (2) is required to be titled, licensed, or registered by this state for
 33 use in Indiana.

34 (c) The use tax is imposed on the addition of tangible personal
 35 property to a structure or facility **and services provided for an**
 36 **addition of tangible personal property to a structure or facility**, if,
 37 after its addition, the property becomes part of the real estate on which
 38 the structure or facility is located. However, the use tax does not apply
 39 to additions of tangible personal property described in this subsection,
 40 if:

41 (1) the state gross retail or use tax has been previously imposed
 42 on the sale or use of that property **or service**; or

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(2) the ultimate purchaser or recipient of that property **or services** would have been exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property **or services** from the supplier for addition to the structure or facility.

(d) Notwithstanding any other provision of this section, the use tax is not imposed on the keeping, retaining, or exercising of any right or power over tangible personal property, if:

(1) the property is delivered into Indiana by or for the purchaser of the property;

(2) the property is delivered in Indiana for the sole purpose of being processed, printed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property; and

(3) the property is subsequently transported out of state for use solely outside Indiana.

SECTION 22. IC 6-2.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 4. (a) The storage, use, and consumption of tangible personal property **or services** in Indiana is exempt from the use tax if:

(1) the property **or services** was acquired in a retail transaction in Indiana and the state gross retail tax has been paid on the acquisition of that property **or services**; or

(2) the property **or services** was acquired in a transaction that is wholly or partially exempt from the state gross retail tax under any part of IC 6-2.5-5, except IC 6-2.5-5-24(b), and the property **or services** is being used, stored, or consumed for the purpose for which it was exempted.

(b) If a person issues a state gross retail or use tax exemption certificate for the acquisition of tangible personal property **or services** and subsequently uses, stores, or consumes that property **or services** for a nonexempt purpose, then the person shall pay the use tax.

SECTION 23. IC 6-2.5-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 5. (a) A person is entitled to a credit against the use tax imposed on the use, storage, or consumption of a particular item of tangible personal property **or services** equal to the amount, if any, of sales tax, purchase tax, or use tax paid to another state, territory, or possession of the United States for the acquisition of that property **or services**.

(b) The credit provided under subsection (a) does not apply to the use tax imposed on the use, storage, or consumption of vehicles, watercraft, or aircraft that are required to be titled, registered, or

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1 licensed by Indiana.

2 SECTION 24. IC 6-2.5-3-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 6. (a) For
4 purposes of this section, "person" includes an individual who is
5 personally liable for use tax under IC 6-2.5-9-3.

6 (b) The person who uses, stores, or consumes the tangible personal
7 property **or services** acquired in a retail transaction is personally liable
8 for the use tax.

9 (c) The person liable for the use tax shall pay the tax to the retail
10 merchant from whom the person acquired the property **or services**, and
11 the retail merchant shall collect the tax as an agent for the state, if the
12 retail merchant is engaged in business in Indiana or if the retail
13 merchant has departmental permission to collect the tax. In all other
14 cases, the person shall pay the use tax to the department.

15 (d) Notwithstanding subsection (c), a person liable for the use tax
16 imposed in respect to a vehicle, watercraft, or aircraft under section
17 2(b) of this chapter shall pay the tax:

18 (1) to the titling agency when the person applies for a title for the
19 vehicle or the watercraft; or

20 (2) to the registering agency when the person registers the
21 aircraft;

22 unless the person presents proof to the agency that the use tax or state
23 gross retail tax has already been paid with respect to the purchase of
24 the vehicle, watercraft, or aircraft or proof that the taxes are
25 inapplicable because of an exemption under this article.

26 (e) At the time a person pays the use tax for the purchase of a
27 vehicle to a titling agency pursuant to subsection (d), the titling agency
28 shall compute the tax due based on the presumption that the sale price
29 was the average selling price for that vehicle, as determined under a
30 used vehicle buying guide to be chosen by the titling agency. However,
31 the titling agency shall compute the tax due based on the actual sale
32 price of the vehicle if the buyer, at the time the buyer pays the tax to the
33 titling agency, presents documentation to the titling agency sufficient
34 to rebut the presumption set forth in this subsection and to establish the
35 actual selling price of the vehicle.

36 SECTION 25. IC 6-2.5-3-7 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 7. (a) A person
38 who acquires tangible personal property **or services** from a retail
39 merchant for delivery in Indiana is presumed to have acquired the
40 property **or services** for storage, use, or consumption in Indiana, unless
41 the person or the retail merchant can produce evidence to rebut that
42 presumption.

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(b) A retail merchant is not required to produce evidence of nontaxability under subsection (a) if the retail merchant receives from the person who acquired the property **or services** an exemption certificate which certifies, in the form prescribed by the department, that the acquisition is exempt from the use tax.

SECTION 26. IC 6-2.5-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 8. (a) When a retail merchant collects the use tax from a person, ~~he~~ **the retail merchant** shall, upon request, issue a receipt to that person for the use tax collected.

(b) If the department assesses the use tax against a person for the person's storage, use, or consumption of tangible personal property **or services** in Indiana, and if the person has already paid the use tax in relation to that property **or services** to a retail merchant who is registered under IC 6-2.5-6, to the department, or, in the case of a vehicle or aircraft, to the proper state agency, then the person may avoid paying the use tax to the department if ~~he~~ **the person** can produce a receipt or other written evidence showing that ~~he~~ **the person** has so made the use tax payment.

SECTION 27. IC 6-2.5-4-1, AS AMENDED BY P.L.257-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 1. (a) A person is a retail merchant making a retail transaction when ~~he~~ **the person** engages in selling at retail.

(b) A person is engaged in selling at retail when, in the ordinary course of ~~his~~ **the person's** regularly conducted trade or business, ~~he~~ **the person:**

- (1) acquires tangible personal property **or services** for the purpose of resale; and
- (2) transfers that property **or service** to another person for consideration.

(c) For purposes of determining what constitutes selling at retail, it does not matter whether:

- (1) the property is transferred in the same form as when it was acquired;
- (2) the property **or service** is transferred alone or in conjunction with other property or services; or
- (3) the property **or service** is transferred conditionally or otherwise.

(d) Notwithstanding subsection (b), a person is not selling at retail if he is making a wholesale sale as described in section 2 of this chapter.

(e) The gross retail income received from selling at retail is only

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taxable under this article to the extent that the income represents:

(1) the price of the property transferred ~~without the rendition of any or~~ service **delivered**; and

(2) ~~except as provided in subsection (g);~~ any bona fide charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred **or service delivered** before its transfer and which are separately stated on the transferor's records.

For purposes of subdivision (2), charges for delivery are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(f) Notwithstanding subsection (e):

(1) in the case of retail sales of gasoline (as defined in IC 6-6-1.1-103) and special fuel (as defined in IC 6-6-2.5-22), the gross retail income received from selling at retail is the total sales price of the gasoline or special fuel minus the part of that price attributable to tax imposed under IC 6-6-1.1, IC 6-6-2.5, or Section 4041(a) or Section 4081 of the Internal Revenue Code; and

(2) in the case of retail sales of cigarettes (as defined in IC 6-7-1-2), the gross retail income received from selling at retail is the total sales price of the cigarettes including the tax imposed under IC 6-7-1.

~~(g) Gross retail income does not include income that represents charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant. However, the exclusion under this subsection only applies if the charges for the serving or delivery are stated separately from the price of the food and food ingredients when the purchaser pays the charges.~~

SECTION 28. IC 6-2.5-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 2. (a) A person is a retail merchant making a retail transaction when ~~he~~ **the person** is making wholesale sales.

(b) For purposes of this section, a person is making wholesale sales when ~~he~~ **the person**:

(1) sells tangible personal property **or service**, other than capital assets or depreciable property, to a person who purchases the property **or service** for the purpose of reselling it without changing its form;

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(2) sells tangible personal property **or service** to a person who purchases the property **or service** for direct consumption as a material **or direct initial use** in the direct production of other tangible personal property **or services** produced by the person in ~~his~~ **the person's** business of manufacturing, processing, refining, repairing, mining, agriculture, or horticulture;

(3) sells tangible personal property to a person who purchases the property for incorporation as a material or integral part of tangible personal property produced by the person in ~~his~~ **the person's** business of manufacturing, assembling, constructing, refining, or processing;

(4) sells drugs, medical or dental preparations, or other similar materials **or services directly related to the use of these materials** to a person who purchases the materials **or services** for direct consumption in professional use by a physician, hospital, embalmer, funeral director, or tonsorial parlor;

(5) sells tangible personal property **or service** to a person who purchases the property **or service** for direct consumption in ~~his~~ **the person's** business of industrial cleaning; or

(6) sells tangible personal property **or service** to a person who purchases the property **or service** for direct consumption in the person's business in the direct rendering of public utility service.

(c) Notwithstanding any provision of this article, a person is not making a retail transaction when ~~he~~ **the person**:

(1) acquires tangible personal property owned by another person;

(2) provides industrial processing or servicing, including enameling or plating, on the property; and

(3) transfers the property back to the owner to be sold by that owner either in the same form or as a part of other tangible personal property produced by that owner in ~~his~~ **the person's** business of manufacturing, assembling, constructing, refining, or processing.

SECTION 29. IC 6-2.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 3. ~~(a)~~ A person is a retail merchant making a retail transaction when ~~he~~ **the person** regularly and occupationally engages in the business of softening and conditioning water.

~~(b)~~ For purposes of this section, the business of softening and conditioning water includes the exchange of water softening and conditioning tanks in the ordinary course of the business, but does not include the preparatory plumbing and work necessary for the first installation of tanks.

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SECTION 30. IC 6-2.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 5. (a) As used in this section, a "power subsidiary" means a corporation which is owned or controlled by one (1) or more public utilities that furnish or sell electrical energy, natural or artificial gas, water, steam, or steam heat and which produces power exclusively for the use of those public utilities.

(b) A power subsidiary or a person engaged as a public utility is a retail merchant making a retail transaction when the subsidiary or person furnishes or sells electrical energy, natural or artificial gas, water, steam, or steam heating service to a person for commercial or domestic consumption.

(c) Notwithstanding subsection (b), a power subsidiary or a person engaged as a public utility is not a retail merchant making a retail transaction when:

~~(1) the power subsidiary or person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the services or commodities listed in subsection (b);~~

~~(2) (1) the power subsidiary or person sells the services or commodities listed in subsection (b) to another public utility or power subsidiary described in this section or a person described in section 6 of this chapter; or~~

~~(3) (2) the power subsidiary or person sells the services or commodities listed in subsection (b) to a person for use in manufacturing, mining, production, refining, oil extraction, mineral extraction, irrigation, agriculture, or horticulture. However, this exclusion for sales of the services and commodities only applies if the services are consumed as an essential and integral part of an integrated process that produces tangible personal property and those sales are separately metered for the excepted uses listed in this subdivision, or if those sales are not separately metered but are predominately used by the purchaser for the excepted uses listed in this subdivision.~~

SECTION 31. IC 6-2.5-4-6, AS AMENDED BY P.L.104-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 6. (a) As used in this section, "telecommunication services" means the transmission of messages or information by or using wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. The term does not include value added services in which computer processing applications are used to act on the form, content, code, or protocol of the information for

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purposes other than transmission.

(b) A person is a retail merchant making a retail transaction when the person:

- (1) furnishes or sells ~~an intrastate~~ a telecommunication service; and
- (2) receives gross retail income from billings or statements rendered to customers.

(c) Notwithstanding subsection (b), a person is not a retail merchant making a retail transaction when:

~~(1) the person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of the telecommunication services described in subsection (a);~~

~~(2) (1) the person furnishes or sells the telecommunication services described in subsection (a) to another person described in this section or in section 5 of this chapter;~~

~~(3) (2) the person furnishes telecommunications services described in subsection (a) to another person who is using a prepaid telephone calling card or prepaid telephone authorization number described in section 13 of this chapter; or~~

~~(4) (3) the person furnishes intrastate mobile telecommunications service (as defined in IC 6-8.1-15-7) to a customer with a place of primary use that is not located in Indiana (as determined under IC 6-8.1-15).~~

SECTION 32. IC 6-2.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 9. (a) A person is a retail merchant making a retail transaction when the person sells tangible personal property ~~which~~ or services that:

(1) ~~is~~ **are** to be added to a structure or facility **or used to add tangible personal property to a structure or facility** by the purchaser; and

(2) after ~~its~~ **the** addition to the structure or facility, **the tangible personal property** would become a part of the real estate on which the structure or facility is located.

(b) Notwithstanding subsection (a), a transaction described in subsection (a) is not a retail transaction, if the ultimate purchaser or recipient of the property to be added to the structure or facility would be exempt from the state gross retail and use taxes if that purchaser or recipient had directly purchased the property from the supplier for addition to the structure or facility.

SECTION 33. IC 6-2.5-4-10, AS AMENDED BY P.L.257-2003, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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DECEMBER 1, 2005]: Sec. 10. (a) A person, other than a public utility, is a retail merchant making a retail transaction when ~~he~~ **the person** rents or leases tangible personal property to another person other than for subrent or sublease.

(b) A person is a retail merchant making a retail transaction when the person sells any tangible personal property which has been rented or leased in the regular course of the person's rental or leasing business.

(c) ~~Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when the person rents or leases motion picture film, audio tape, or video tape to another person. However, this exclusion only applies if:~~

(1) ~~the person who pays to rent or lease the film charges admission to those who view the film; or~~

(2) ~~the person who pays to rent or lease the film or tape broadcasts the film or tape for home viewing or listening.~~

SECTION 34. IC 6-2.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 11. ~~(a)~~ A person is a retail merchant making a retail transaction when ~~he~~ **the person** furnishes ~~local cable or satellite television, service or intrastate cable television radio, or Internet access or content~~ service.

(b) ~~Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when the person provides, installs, constructs, services, or removes tangible personal property which is used in connection with the furnishing of local cable television service or intrastate cable television service.~~

SECTION 35. IC 6-2.5-5-1, AS AMENDED BY P.L.257-2003, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 1. Transactions involving animals, feed, seed, plants, fertilizer, insecticides, fungicides, and other tangible personal property **and services** are exempt from the state gross retail tax if:

(1) the person acquiring the property **or service** acquires it for ~~his~~ **the person's** direct use in the direct production of food and food ingredients or commodities for sale or for further use in the production of food and food ingredients or commodities for sale; and

(2) the person acquiring the property **or service** is occupationally engaged in the production of food and food ingredients or commodities which ~~he~~ **the person** sells for human or animal consumption or uses for further food and food ingredient or commodity production.

SECTION 36. IC 6-2.5-5-2, AS AMENDED BY P.L.257-2003,

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SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 2. (a) Transactions involving agricultural machinery, tools, ~~and~~ equipment, **and services** are exempt from the state gross retail tax if the person acquiring that property **or service** acquires it for ~~his~~ **the person's** direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery, ~~or~~ equipment, **or services** are exempt from the state gross retail tax if:

(1) the person acquiring the property **or service** acquires it for use in conjunction with the production of food and food ingredients or commodities for sale;

(2) the person acquiring the property **or service** is occupationally engaged in the production of food or commodities which ~~he~~ **the person** sells for human or animal consumption or uses for further food and food ingredients or commodity production; and

(3) the machinery, ~~or~~ equipment, **or service** is designed for use in gathering, moving, or spreading animal waste.

SECTION 37. IC 6-2.5-5-3, AS AMENDED BY P.L.192-2002(ss), SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 3. (a) For purposes of this section:

(1) the retreading of tires shall be treated as the processing of tangible personal property; and

(2) commercial printing shall be treated as the production and manufacture of tangible personal property.

(b) Transactions involving manufacturing machinery, tools, ~~and~~ equipment, **and services** are exempt from the state gross retail tax if the person acquiring that property **or service** acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

SECTION 38. IC 6-2.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 4. Transactions involving tangible personal property **or service** are exempt from the state gross retail tax if the person acquiring the property **or service** acquires it for ~~his~~ **the person's** direct use in the direct production of the machinery, tools, or equipment described in section 2 or 3 of this chapter.

SECTION 39. IC 6-2.5-5-5.1, AS AMENDED BY P.L.192-2002(ss), SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 5.1. (a) As used in this section, "tangible personal property" includes electrical energy, natural or artificial gas, water, steam, and steam heat.

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(b) Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property **or service** acquires it for direct consumption as a material to be consumed in the direct production of other tangible personal property in the person's business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture. This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

SECTION 40. IC 6-2.5-5-6, AS AMENDED BY P.L.192-2002(ss), SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 6. Transactions involving tangible personal property **or services** are exempt from the state gross retail tax if the person:

- (1) acquiring the property acquires it for incorporation as a material part of other tangible personal property; **or**
- (2) **acquiring the service acquires the service for direct consumption in incorporating a material part of other tangible personal property;**

which the purchaser manufactures, assembles, refines, or processes for sale in ~~his~~ **the person's** business This exemption includes transactions involving acquisitions of tangible personal property used in commercial printing.

SECTION 41. IC 6-2.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 7. Transactions involving tangible personal property **or services** are exempt from the state gross retail tax if:

- (1) the person acquiring the property **or service** is in the construction business;
- (2) the person:
 - (A) acquiring the property acquires it for incorporation as a material or integral part of a public street or of a public water, sewage, or other utility service; **or**
 - (B) **acquiring the property acquires it for direct use, incorporating a material or an integral part of a public street or of a public water, sewage, or other utility service;**
- (3) the public street or public utility service into which the property is to be incorporated **or service used** is required under a subdivision plat, approved and accepted by the appropriate Indiana political subdivision; and
- (4) the public street or public utility is to be publicly maintained after its completion.

SECTION 42. IC 6-2.5-5-10 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 10.
 2 Transactions involving tangible personal property **or services** are
 3 exempt from the state gross retail tax, if:

4 (1) the property **or service** is classified as production plant or
 5 power production expenses, according to the uniform system of
 6 accounts which was adopted and prescribed for the utility by the
 7 Indiana utility regulatory commission; and

8 (2) the person acquiring the property **or service** is:

9 (A) a public utility that furnishes or sells electrical energy,
 10 steam, or steam heat in a retail transaction described in
 11 IC 6-2.5-4-5; or

12 (B) a power subsidiary (as defined in IC 6-2.5-4-5(a)) that
 13 furnishes or sells electrical energy, steam, or steam heat to a
 14 public utility described in clause (A).

15 SECTION 43. IC 6-2.5-5-11 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 11.
 17 Transactions involving tangible personal property **or services** are
 18 exempt from the state gross retail tax, if:

19 (1) the property **or service** is classified as production plant,
 20 storage plant, production expenses, or underground storage
 21 expenses according to the uniform system of accounts, which was
 22 adopted and prescribed for the utility by the Indiana utility
 23 regulatory commission; and

24 (2) the person acquiring the property **or service** is a public utility
 25 that furnishes or sells natural or artificial gas in a retail
 26 transaction described in IC 6-2.5-4-5.

27 SECTION 44. IC 6-2.5-5-12 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 12. (a)
 29 Transactions involving tangible personal property **or service** are
 30 exempt from the state gross retail tax, if:

31 (1) the property **or service** is classified as source of supply plant
 32 and expenses, the pumping plant and expenses, or water treatment
 33 plant and expenses according to the uniform system of accounts
 34 which was adopted and prescribed for the utility by the Indiana
 35 utility regulatory commission; and

36 (2) the person acquiring the property **or service** is a public utility
 37 that furnishes or sells water in a retail transaction described in
 38 IC 6-2.5-4-5.

39 (b) Transactions involving tangible personal property **or service** are
 40 exempt from the state gross retail tax if:

41 (1) the property **or service** is classified as collection plant and
 42 expenses, treatment and disposal plant and expenses, or system

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1 pumping plant and expenses; and

2 (2) the person acquiring the property **or service** is a public utility
3 that collects, treats, or processes wastewater.

4 SECTION 45. IC 6-2.5-5-13 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 13.
6 Transactions involving tangible personal property are exempt from the
7 state gross retail tax, if:

8 (1) the property is:

9 (A) classified as central office equipment, station equipment
10 or apparatus, station connection, wiring, or large private
11 branch exchanges according to the uniform system of accounts
12 which was adopted and prescribed for the utility by the Indiana
13 utility regulatory commission; or

14 (B) mobile telecommunications switching office equipment,
15 radio or microwave transmitting or receiving equipment,
16 including, without limitation, towers, antennae, and property
17 that perform a function similar to the function performed by
18 any of the property described in clause (A); and

19 (2) the person acquiring the property furnishes or sells ~~intrastate~~
20 telecommunication service in a retail transaction described in
21 IC 6-2.5-4-6.

22 SECTION 46. IC 6-2.5-5-14 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 14. (a)
24 Transactions involving tangible personal property **or service** are
25 exempt from the state gross retail tax if the person acquiring the
26 property **or service** is:

27 (1) a municipally owned utility;

28 (2) a utility owned or operated by a special district; or

29 (3) a public utility owned or operated by a not-for-profit
30 corporation incorporated under:

31 (A) the Indiana General Not for Profit Corporation Act (Acts
32 1935, Chapter 157, as amended), notwithstanding its repeal;

33 (B) the Indiana Not-for-Profit Corporation Act of 1971
34 (IC 23-7-1.1), notwithstanding its repeal; or

35 (C) IC 23-17.

36 (b) The term "public utility owned or operated by a not-for-profit
37 corporation" does not include those public utilities incorporated under
38 Acts 1935, chapter 157, as amended, and which are owned or operated
39 by local district rural electric membership corporations.

40 SECTION 47. IC 6-2.5-5-19.7 IS ADDED TO THE INDIANA
41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
42 [EFFECTIVE DECEMBER 1, 2005]: **Sec. 19.7. Sales of any of the**

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following health or mental health services are exempt from the state gross retail tax:

- (1) Preventive care.
- (2) Inpatient and outpatient hospital and physician care.
- (3) Diagnostic laboratory care.
- (4) Diagnostic and therapeutic radiological services.
- (5) Emergency care.
- (6) Mental health services.
- (7) Services for alcohol and drug abuse.
- (8) Dental services.
- (9) Vision services.
- (10) Long term rehabilitation treatment.
- (11) Home health services.

SECTION 48. IC 6-2.5-5-21, AS AMENDED BY P.L.257-2003, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 21. (a) For purposes of this section, "private benefit or gain" does not include reasonable compensation paid to an employee for work or services actually performed.

(b) Sales of food and food ingredients **and food and food ingredient services** are exempt from the state gross retail tax if:

(1) the seller meets the filing requirements under subsection (d) and is any of the following:

(A) A fraternity, a sorority, or a student cooperative housing organization that is connected with and under the supervision of a college, a university, or any other educational institution if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(B) Any:

- (i) institution;
- (ii) trust;
- (iii) group;
- (iv) united fund;
- (v) affiliated agency of a united fund;
- (vi) nonprofit corporation;
- (vii) cemetery association; or
- (viii) organization;

that is organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(C) A group, an organization, or a nonprofit corporation that is organized and operated for fraternal or social purposes, or

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as a business league or association, and not for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(D) A:

- (i) hospital licensed by the state department of health;
- (ii) shared hospital services organization exempt from federal income taxation by Section 501(c)(3) or 501(e) of the Internal Revenue Code;
- (iii) labor union;
- (iv) church;
- (v) monastery;
- (vi) convent;
- (vii) school that is a part of the Indiana public school system;
- (viii) parochial school regularly maintained by a recognized religious denomination; or
- (ix) trust created for the purpose of paying pensions to members of a particular profession or business who created the trust for the purpose of paying pensions to each other; if the taxpayer is not organized or operated for private profit or gain;

(2) the purchaser is a person confined to ~~his~~ **the purchaser's** home because of age, sickness, or infirmity;

(3) the seller delivers the food and food ingredients **or food and food ingredient services** to the purchaser; and

(4) the delivery is prescribed as medically necessary by a physician licensed to practice medicine in Indiana.

(c) Sales of food and food ingredients **and food and food ingredient services** are exempt from the state gross retail tax if the seller is an organization described in subsection (b)(1), and the purchaser is a patient in a hospital operated by the seller.

(d) To obtain the exemption provided by this section, a taxpayer must file an application for exemption with the department:

- (1) before January 1, 2003, under IC 6-2.1-3-19 (repealed); or
- (2) not later than one hundred twenty (120) days after the taxpayer's formation.

In addition, the taxpayer must file an annual report with the department on or before the fifteenth day of the fifth month following the close of each taxable year. If a taxpayer fails to file the report, the department shall notify the taxpayer of the failure. If within sixty (60) days after receiving such notice the taxpayer does not provide the report, the taxpayer's exemption shall be canceled. However, the department may

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reinstates the taxpayer's exemption if the taxpayer shows by petition that the failure was due to excusable neglect.

SECTION 49. IC 6-2.5-5-21.5, AS AMENDED BY P.L.257-2003, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 21.5. Sales of food and food ingredients **and food and food ingredient services** prescribed as medically necessary by a physician licensed to practice medicine in Indiana are exempt from the state gross retail tax if:

(1) a registered pharmacist makes the sale upon the prescription of a practitioner who is licensed to practice medicine in Indiana; or

(2) the licensed practitioner makes the sale of the food and food ingredients **or food and food ingredient services** described in this section.

SECTION 50. IC 6-2.5-5-22, AS AMENDED BY P.L.257-2003, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 22. (a) Sales of school meals are exempt from the state gross retail tax if:

(1) the seller is a school containing students in any grade, one (1) through twelve (12);

(2) the purchaser is one (1) of those students or a school employee; and

(3) the school furnishes the food and food ingredients on its premises.

(b) Sales of food and food ingredients **and food and food ingredient services** by not-for-profit colleges or universities are exempt from the state gross retail tax, if the purchaser is a student at the college or university.

(c) Sales of meals after December 31, 1976, by a fraternity, sorority, or student cooperative housing organization described in section 21(b)(1)(A) of this chapter are exempt from the state gross retail tax, if the purchaser:

(1) is a member of the fraternity, sorority, or student cooperative housing organization; and

(2) is enrolled in the college, university, or educational institution with which the fraternity, sorority, or student cooperative housing organization is connected and by which it is supervised.

SECTION 51. IC 6-2.5-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 23. Transactions involving tangible personal property **or services** are exempt from the state gross retail tax, if the person:

(1) acquiring the property acquires it for incorporation into a

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1 school building which is being constructed by a lessor corporation
 2 in accordance with a lease executed under IC 21-5-11 or
 3 IC 21-5-12; **or**

4 **(2) acquiring the service acquires it for direct use in the**
 5 **incorporation of tangible personal property into a school**
 6 **building which is being constructed by a lessor corporation in**
 7 **accordance with a lease executed under IC 21-5-11 or**
 8 **IC 21-5-12.**

9 SECTION 52. IC 6-2.5-5-26, AS AMENDED BY P.L.192-2002(ss),
 10 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 DECEMBER 1, 2005]: Sec. 26. (a) Sales of tangible personal property
 12 **or services** are exempt from the state gross retail tax, if:

- 13 (1) the seller is an organization that is described in section
 14 21(b)(1) of this chapter;
 15 (2) the organization makes the sale to make money to carry on a
 16 not-for-profit purpose; and
 17 (3) the organization does not make those sales during more than
 18 thirty (30) days in a calendar year.

19 (b) Sales of tangible personal property **or services** are exempt from
 20 the state gross retail tax, if:

- 21 (1) the seller is an organization described in section 21(b)(1) of
 22 this chapter;
 23 (2) the seller is not operated predominantly for social purposes;
 24 (3) the property **or service** sold is designed and intended
 25 primarily either for the organization's educational, cultural, or
 26 religious purposes, or for improvement of the work skills or
 27 professional qualifications of the organization's members; and
 28 (4) the property **or service** sold is not designed or intended
 29 primarily for use in carrying on a private or proprietary business.

30 (c) The exemption provided by this section does not apply to an
 31 accredited college or university's sales of books, stationery,
 32 haberdashery, supplies, or other property **or noneducational services**.

33 SECTION 53. IC 6-2.5-5-30 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 30. **(a)** Sales of
 35 tangible personal property **or services** are exempt from the state gross
 36 retail tax if:

- 37 (1) the:
 38 **(A)** property constitutes, is incorporated into, or is consumed
 39 in the operation of, a device, facility, or structure
 40 predominantly used and acquired for the purpose of complying
 41 with any state, local, or federal environmental quality statutes,
 42 regulations, or standards; **or**

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(B) service is directly consumed in the incorporation into or consumption in the operation of a device, facility, or structure predominantly used and acquired for the purpose of complying with state, local, or federal environmental quality laws, regulations, or standards; and

(2) the person acquiring the property **or service** is engaged in the business of manufacturing, processing, refining, mining, or agriculture.

(b) The portion of the sales price of tangible personal property **or service** which is exempt from state gross retail and use taxes under this section equals the product of:

~~(A)~~ (1) the total sales price; multiplied by

~~(B)~~ (2) one hundred percent (100%).

SECTION 54. IC 6-2.5-5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 33. Sales of tangible personal property **or services** purchased with food stamps are exempt from the state gross retail tax.

SECTION 55. IC 6-2.5-5-35, AS AMENDED BY P.L.257-2003, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 35. Transactions involving tangible personal property **or services** are exempt from the state gross retail tax if:

(1) the:

(A) person acquires the property **or services** to facilitate the service or consumption of food and food ingredients that is not exempted from the state gross retail tax under section 20 of this chapter; and

(B) property **or service** is:

(i) used, consumed, or removed in the service or consumption of the food and food ingredients; and

(ii) made unusable for further service or consumption of food and food ingredients after the property's first use for service or consumption of food and food ingredients; or

(2) the:

(A) person acquiring the property **or service** is engaged in the business of renting or furnishing rooms, lodgings, or accommodations in a commercial hotel, motel, inn, tourist camp, or tourist cabin; and

(B) the property **or service** acquired is:

(i) used up, removed, or otherwise consumed during the occupation of the rooms, lodgings, or accommodations by a guest; or

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(ii) rendered nonreusable by the property's **or service's** first use by a guest during the occupation of the rooms, lodgings, or accommodations.

SECTION 56. IC 6-2.5-6-9, AS AMENDED BY P.L.257-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which ~~he~~ **a retail merchant** must remit under section 7 of this chapter, a retail merchant shall, subject to subsection (c), deduct from ~~his~~ **the merchant's** gross retail income from retail transactions made during a particular reporting period, an amount equal to ~~his~~ **the merchant's** receivables which:

- (1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the purchaser;
- (2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and
- (3) were written off as an uncollectible debt for federal tax purposes under Section 166 of the Internal Revenue Code during the particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects all or part of that receivable, then the retail merchant shall, subject to subsection (c)(6), include the amount collected as part of ~~his~~ **the merchant's** gross retail income from retail transactions for the particular reporting period in which ~~he~~ **the merchant** makes the collection.

(c) The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):

- (1) The deduction does not include interest.
- (2) The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:
 - (A) financing charges or interest;
 - (B) sales or use taxes charged on the purchase price;
 - (C) uncollectible amounts on property that remain in the possession of the seller **or a service that is not delivered** until the full purchase price is paid;
 - (D) expenses incurred in attempting to collect any debt; and
 - (E) repossessed property.

(3) The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a

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claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.

(4) If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.

(5) If a retail merchant's filing responsibilities have been assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property **or service** and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

SECTION 57. IC 6-2.5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 3. (a) A manufacturer or wholesaler may register with the department as a purchaser of property **or services** in exempt transactions. A manufacturer or wholesaler wishing to register must apply in the same manner and pay the same fee as a retail merchant under section 1 of this chapter.

(b) Upon receiving the application and fee, the department may issue a manufacturer's or wholesaler's certificate for each place of business listed on the application. Each certificate shall contain a serial number and the location of the place of business for which it is issued.

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SECTION 58. IC 6-2.5-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2005]: Sec. 4. (a) An organization, exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26, may register with the department as a purchaser of property **or services** in exempt transactions. An exempt organization wishing to register must file an application listing its principal location, but the organization is not required to pay the fee.

(b) Upon receiving the application, the department may issue an exempt organization certificate containing a serial number and the principal location of the exempt organization.

SECTION 59. IC 6-2.5-10-1, AS AMENDED BY P.L.192-2002(ss), SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 1, 2006]: Sec. 1. (a) The department shall account for all state gross retail and use taxes that it collects.

(b) The department shall deposit those collections in the following manner:

(1) ~~Fifty Sixty-two and six hundred thirty-three thousandths~~ percent ~~(50%)~~ **(62.633%)** of the collections shall be paid into the property tax replacement fund established under IC 6-1.1-21.

(2) ~~Forty-nine Thirty-six and one seven hundred ninety-two~~ **sixty-two** thousandths percent ~~(49.192%)~~ **(36.762%)** of the collections shall be paid into the state general fund.

(3) ~~Six Four hundred thirty-five seventy-five thousandths~~ of one percent ~~(0.635%)~~ **(0.475%)** of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.

(4) ~~Thirty-three~~ **Twenty-five** thousandths of one percent ~~(0.033%)~~ **(0.025%)** of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

(5) ~~Fourteen-hundredths~~ **One hundred five thousandths** of one percent ~~(0.14%)~~ **(0.105%)** of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

SECTION 60. IC 6-3.5-1.1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.5. (a) A reference in this chapter relating to certified shares that refers to a levy or property tax imposed in a civil taxing district shall be treated as a reference to the amount of the budget of a political subdivision for a year, as determined by the budget agency under IC 6-3.1, but excluding an amount budgeted from an exempted source (as defined in IC 36-1.3-2-7).**

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(b) An amount distributable under this chapter to a civil taxing unit or school corporation for additional property tax replacement credits that exceeds the amount of property tax imposed in the political subdivision shall be distributed to civil taxing units as certified shares.

SECTION 61. IC 6-3.5-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.5.** A reference in this chapter that refers to a levy or property tax imposed in a civil taxing district shall be treated as a reference to the amount of the budget of a political subdivision for a year, as determined by the budget agency under IC 6-3.1, but excluding an amount budgeted from an exempted source (as defined in IC 36-1.3-2-7).

SECTION 62. IC 6-3.5-6-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.7.** (a) This section applies to a county that provided an additional homestead credit in 2004 or 2005 from taxes imposed under this chapter.

(b) The amount provided in the most recent year in which homestead credits were provided shall, after December 31, 2005, be distributed to units of local government (as defined in IC 5-10.3-11-3) in the same proportion as funds may be distributed to the unit under IC 5-10.3 and used only for a purpose for which money distributed from the pension relief fund may be used under IC 5-10.3-11-3.

SECTION 63. IC 6-3.5-7-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.7.** A reference in this chapter that refers to a levy or property tax imposed in a civil taxing district shall be treated as a reference to the amount of the budget of a political subdivision for a year, as determined by the budget agency under IC 6-3.1, but excluding an amount budgeted from an exempted source (as defined in IC 36-1.3-2-7).

SECTION 64. IC 6-3.5-7-1.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 1.9.** (a) This section applies to a county that provided an additional homestead credit in 2004 or 2005 from taxes imposed under this chapter.

(b) The tax rate authorized under IC 6-3.5-7-25 (repealed) may be imposed after December 31, 2005. However, the amount provided in the most recent year in which homestead credits were provided shall, after December 31, 2005, be distributed to units of

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1 local government (as defined in IC 5-10.3-11-3) in the same
 2 proportion as funds may be distributed to the unit under IC 5-10.3
 3 and used only for a purpose for which money distributed from the
 4 pension relief fund may be used under IC 5-10.3-11-3.

5 SECTION 65. IC 14-23-3-3, AS AMENDED BY P.L.272-2003,
 6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2004]: Sec. 3. ~~Annually~~ (a) **Before January 1, 2006**, there
 8 shall **annually** be levied ~~and collected~~ as other state ad valorem
 9 property taxes are levied ~~and collected~~ the amount of sixteen
 10 hundredths of one cent (\$0.0016) upon each one hundred dollars
 11 (\$100) worth of taxable property in Indiana. **An ad valorem property**
 12 **tax may not be levied under this section for property taxes first due**
 13 **and payable after December 31, 2005.**

14 (b) **The ad valorem property tax imposed under this section**
 15 **shall be collected as other ad valorem property taxes are collected.**
 16 **The county in which the property tax is levied shall transfer the**
 17 **amounts collected from the levy to the treasurer of state for deposit**
 18 **in the fund.**

19 (c) The money collected resulting from one hundred fifty-seven
 20 thousandths of one cent (\$0.00157) of the rate shall be paid into the
 21 fund. The money collected resulting from three thousandths of one cent
 22 (\$0.00003) is appropriated to the budget agency for purposes of
 23 department of local government finance data base management.

24 (d) **This section expires June 30, 2006.**

25 SECTION 66. IC 15-1.5-7-3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The fund consists
 27 of the following:

28 (1) Revenue from the property tax imposed under IC 15-1.5-8
 29 **before January 1, 2006.**

30 (2) Appropriations made by the general assembly.

31 (3) Interest accruing from investment of money in the fund.

32 (4) Certain proceeds from the operation of the fair.

33 (b) The fund is divided into the following accounts:

34 (1) Agricultural fair revolving contingency account.

35 (2) Other accounts established by the commission.

36 (c) The money credited to the agricultural fair revolving
 37 contingency account may only be used to pay start-up expenses for the
 38 fair each year. Money used to pay the start-up expenses from the
 39 account shall be replaced using proceeds from the operation of the fair
 40 before the proceeds may be used for any other purpose.

41 SECTION 67. IC 15-1.5-8-1, AS AMENDED BY P.L.272-2003,
 42 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2004]: Sec. 1. A tax is imposed upon all the taxable property in the state at a rate of eight hundredths of a cent (\$0.0008) for each one hundred dollars (\$100) of assessed valuation **for property taxes first due and payable before January 1, 2006. The state may not impose an ad valorem property tax under this section for property taxes first due and payable after December 31, 2005.**

SECTION 68. IC 15-1.5-8-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 5. This chapter expires December 31, 2005.**

SECTION 69. IC 36-1.3 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 1.3. BUDGETS

Chapter 1. Application

Sec. 1. This article applies to budgets for all political subdivisions for all budget years beginning after December 31, 2004.

Sec. 2. IC 36-1.3-6 applies to bonds (as defined in IC 36-1.3-6-2) and leases (as defined in IC 36-1.3-6-6) after December 31, 2005.

Chapter 2. Expenditure Limitation

Sec. 1. This chapter does not apply to the part of an appropriation that is funded from any of the following sources of revenue:

- (1) Distributions from the motor vehicle highway account established by IC 8-14-1.**
- (2) Distributions from the highway, road and street fund established by IC 8-14-2-2.1.**
- (3) Distributions from the pension relief fund established by IC 5-10.3-11.**
- (4) Revenues received from the government of the United States.**
- (5) Revenues contributed by a governmental entity described in IC 36-1-7-1 to the political subdivision to administer an interlocal agreement under IC 36-1-7 or another statute providing for a joint enterprise, if the revenues were either counted toward the expenditure limit of the political subdivision contributing the revenues or qualified as exempted source revenues for the political subdivision contributing the revenues.**
- (6) The proceeds of:**
 - (A) contracts with; and**
 - (B) grants, gifts, donations, and bequests made to;**

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the political subdivision for a purpose specified by the contractor or donor.

(7) User charges derived by the political subdivision from the sale of a product or service:

(A) pledged or legally available to repay any security; or

(B) for which the quantity of the product or level of service provided to a user is at the discretion of the user.

(8) Revenues derived from the issuance of any security. However, this subdivision does not exempt the money pledged to repay the principal of and interest on the security or to establish a reserve for repayment.

(9) Revenues received from the sale of fixed assets or gains on fixed asset transfers.

(10) Revenues raised to meet a fiscal emergency.

(11) Unexpended appropriated balances remaining in a cumulative fund after the year in which the money was appropriated.

(12) Special assessments, other than a special assessment under IC 36-8.5, authorized by state law.

(13) A license fee that is not greater than the amount reasonably related to the administrative cost of exercising a regulatory power.

(14) A service charge or user fee that is not greater than the amount reasonably related to reasonable and just rates and charges for services.

(15) Property taxes authorized under IC 6-1.1-2 that are imposed to make payments for debt service, including bond and lease payments.

Sec. 2. As used in this chapter, "adjustment factor" refers to the adjustment factor determined under section 18 of this chapter.

Sec. 3. As used in this chapter, "appropriations" refers to the total capital or operating appropriations of a political subdivision. The term does not include emergency expenditures or expenditures from an exempted source.

Sec. 4. As used in this chapter, "base year" means:

(1) a political subdivision's first budget year beginning after December 31, 2004, if the term is used to compute the expenditure limit for a political subdivision that was initially established before January 1, 2005; or

(2) the first budget year in which a political subdivision operated for an entire budget year, if subdivision (1) does not apply.

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1 Sec. 5. As used in this chapter, "estimated population" means
2 the total number of individuals who are residents of a political
3 subdivision, as determined under section 16 of this chapter.

4 Sec. 6. As used in this chapter, "expenditure limit" means the
5 maximum amount of appropriations that a political subdivision
6 may appropriate for a budget year, as determined or adjusted
7 under sections 14 and 15 of this chapter. The term does not refer
8 to actual appropriations or actual expenditures.

9 Sec. 7. As used in this chapter, "exempted source" means a
10 source of revenue exempted from the application of this chapter
11 under section 1 of this chapter.

12 Sec. 8. As used in this chapter, "fiscal emergency" means
13 circumstances requiring an expenditure exceeding the expenditure
14 limit, as determined under section 29 of this chapter.

15 Sec. 9. As used in this chapter, "income growth index" means
16 the change in Indiana nonfarm personal income determined under
17 section 17 of this chapter.

18 Sec. 10. As used in this section, "Indiana nonfarm personal
19 income" means the estimate of total nonfarm personal income for
20 Indiana in a calendar year as computed by the Bureau of Economic
21 Analysis of the United States Department of Commerce using any
22 actual data for the calendar year and any estimated data
23 determined appropriate by the Bureau of Economic Analysis of the
24 United States Department of Commerce.

25 Sec. 11. As used in this chapter, "per capita appropriations
26 amount" means the amount determined under section 19 of this
27 chapter.

28 Sec. 12. As used in this chapter, "revenues" means money
29 received by a political subdivision from interest, a tax, a penalty,
30 a grant, a state distribution, or any other receipt.

31 Sec. 13. As used in this chapter, "security" means a bond, note,
32 warrant, or other evidence of indebtedness, whether the bond,
33 note, warrant, or other evidence of indebtedness constitutes a debt
34 of the political subdivision or allocation district within the meaning
35 of Article 13, Section 1 of the Constitution of the State of Indiana.

36 Sec. 14. A political subdivision may not appropriate, allot, or
37 expend in a budget year more than an amount equal to the
38 expenditure limit for the political subdivision or as determined
39 under the latest computation made by the budget agency under
40 section 15 of this chapter before the beginning of the budget year.

41 Sec. 15. (a) Not later than six (6) months before the beginning of
42 a political subdivision's budget year, the budget agency shall make

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a preliminary estimate of each of the computations required under sections 16 through 20 of this chapter for the political subdivision.

(b) In order to:

- (1) correct a clerical or computational error;
- (2) incorporate data that becomes available after the preliminary estimate is computed under subsection (a); or
- (3) incorporate the results of a computation under sections 21 through 30 of this chapter;

the budget agency may adjust a computation under sections 16 through 20 of this chapter for a budget year at any time before the first day of the budget year.

(c) Not later than five (5) business days after the budget agency computes an estimate under subsection (a) or (b), the budget agency shall distribute a copy of the estimate for a political subdivision in a county to the political subdivision and the county auditor.

(d) If the total appropriations of a political subdivision will exceed the latest expenditure limit computed under subsection (a) or (b), the political subdivision or the budget agency shall adjust the appropriations to comply with section 14 of this chapter.

Sec. 16. (a) The budget agency shall:

- (1) determine an estimated population for a political subdivision's base year; and
- (2) annually determine an estimated population for each political subdivision.

(b) The estimated population shall be estimated for the first day of the month preceding the base year or budget year by six (6) months using the latest available actual or estimated population data from the United States Department of Commerce Bureau of the Census.

Sec. 17. (a) The budget agency shall annually compute an income growth index for each political subdivision's ensuing budget year.

(b) A political subdivision's income growth index for an ensuing budget year is the result determined under STEP FOUR of the following formula:

STEP ONE: For each of the six (6) calendar years immediately preceding the year in which a budget is adopted under this article for the ensuing calendar year, divide the Indiana nonfarm personal income for the calendar year by the Indiana nonfarm personal income for the calendar year immediately preceding that calendar year, rounding to the

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1 nearest one-thousandth (0.001).

2 **STEP TWO:** Determine the sum of the STEP ONE results.

3 **STEP THREE:** Divide the STEP TWO result by six (6),
4 rounding to the nearest one-thousandth (0.001).

5 **STEP FOUR:** Determine the lesser of the following:

6 (A) The STEP THREE quotient.

7 (B) One and six-hundredths (1.06).

8 **Sec. 18. (a)** The budget agency shall annually compute an
9 adjustment factor for each political subdivision's ensuing budget
10 year.

11 **(b)** The adjustment factor for a budget year is equal to the result
12 in STEP TWO of the following formula:

13 **STEP ONE:** Determine the estimated population for the
14 ensuing budget year.

15 **STEP TWO:** Multiply the STEP ONE amount by the income
16 growth index for the ensuing budget year.

17 **Sec. 19. (a)** The budget agency shall compute the per capita
18 appropriations amount for each political subdivision beginning
19 with the base year. The base year per capita appropriations
20 amount of a political subdivision is equal to the quotient of:

21 (1) the total amount of appropriations actually expended by
22 a political subdivision in the political subdivision's base year;
23 divided by

24 (2) the estimated population of the political subdivision for the
25 base year.

26 **(b)** The per capita appropriations amount for each year after
27 the base year is equal to the quotient of:

28 (1) the expenditure limit amount for the budget year; divided
29 by

30 (2) the estimated population for the budget year.

31 **Sec. 20. (a)** The budget agency shall compute an expenditure
32 limit for each political subdivision for each budget year beginning
33 after the base year.

34 **(b)** The expenditure limit for a political subdivision in an
35 ensuing budget year after the base year is the result determined
36 under STEP TWO of the following formula:

37 **STEP ONE:** Determine the per capita appropriations of the
38 political subdivision for the immediately preceding base year
39 or budget year, whichever occurs later.

40 **STEP TWO:** Multiply the STEP ONE result by the
41 adjustment factor for the political subdivision's ensuing
42 budget year.

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(c) The expenditure limit for a political subdivision that has not operated for at least one (1) full budget year immediately preceding the ensuing budget year is the total amount of appropriations approved by the budget agency for that year.

Sec. 21. If a political subdivision transfers or accepts the responsibility of a program or service to or from another unit of government, the budget agency shall decrease or increase the political subdivision's expenditure limit correspondingly to reflect the changes.

Sec. 22. If a program or service administered by a political subdivision that is totally or partially funded by the federal government ceases to be funded by the federal government, the political subdivision may elect to fund the entire program or service, and the budget agency shall increase the political subdivision's expenditure limitations to reflect these changes.

Sec. 23. If a political subdivision transfers the funding source of a program or service from money subject to this chapter to exempted revenue sources, the budget agency shall decrease the political subdivision's expenditure limit to reflect these changes.

Sec. 24. If a political subdivision transfers programs or services that are funded by exempted sources to programs or services that are funded by money subject to this chapter, the budget agency shall increase the political subdivision's expenditure limitation to reflect these changes.

Sec. 25. If a political subdivision transfers revenues from sources exempt under this chapter to funds containing revenues from nonexempt sources, the revenues transferred shall be part of and subject to the expenditure limit of this chapter.

Sec. 26. If a political subdivision is initially created in a county after December 31, 2005, the expenditure limits of all political subdivisions (except school corporations) shall be proportionally reduced so that the sum of the expenditure limits for all political subdivisions in the county is the same before and after the establishment of the new political subdivision. However, with the consent of the fiscal body of the county and each city and town in the county, the budget agency may use a different formula for adjusting the expenditure limits of the political subdivisions in the county.

Sec. 27. With the consent of the fiscal body of each affected political subdivision, the budget agency may lower the expenditure limit of one (1) or more political subdivisions and raise the expenditure limit of one (1) or more other political subdivisions by

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the same total amount.

Sec. 28. (a) Not later than October 1 immediately preceding a budget year, the fiscal body of a political subdivision may petition the budget agency to increase the political subdivision's expenditure limit for one (1) or more subsequent budget years. The petition must be authorized by at least two-thirds (2/3) of the members elected or appointed to the fiscal body.

(b) Upon:

- (1) receiving a petition under subsection (a);
- (2) giving at least ten (10) days notice to the political subdivision and the county auditor for the county containing the political subdivision; and
- (3) publishing at least one (1) notice under IC 5-3-1 in the county;

the budget agency shall conduct a hearing concerning the petition.

(c) After the hearing under subsection (b), the budget agency may approve an increase in the expenditure limit of a political subdivision if the budget agency determines that:

- (1) the increase is necessary to provide an essential new service not previously provided within the area to be served by any governmental entity or municipal utility; or
- (2) the per capita appropriations amount for the political subdivision is below the median of all similar political subdivisions, and the increase is necessary to provide essential services comparable to the essential services provided in similar political subdivisions.

(d) Funding approved under this section may be included in the appropriations base for computing the expenditure limit for appropriations in subsequent years only to the extent authorized by the budget agency.

Sec. 29. (a) The expenditure limits as provided in this chapter may be exceeded if the budget agency approves the declaration of a fiscal emergency.

(b) A political subdivision may petition the budget agency to approve a declaration of a fiscal emergency for the political subdivision. The petition must describe the fiscal emergency and indicate the source of revenues that will be used to meet the fiscal emergency.

(c) Upon:

- (1) receiving a petition under subsection (b) or on the budget agency's own motion;
- (2) giving at least ten (10) days notice to the political

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subdivision and the county auditor for the county containing the political subdivision; and

(3) publishing at least one (1) notice under IC 5-3-1 in the county;

the budget agency shall conduct a hearing concerning the petition.

(d) After the hearing under subsection (c), the budget agency shall approve a declaration of a fiscal emergency only if the budget agency determines that:

(1) an extraordinary occurrence requires immediate expenditures; or

(2) a shortfall of revenues will result in default on the repayment of principal or interest on an indebtedness.

(e) Payment of expenses directly related to an elimination of an ad valorem property tax system, including the costs of refinancing bonds or leases and settling disputes related to bonds or leases, shall be treated as a fiscal emergency. The political subdivision shall reimburse the political subdivision's account in the state emergency reserve fund for the distribution under the schedule determined by the budget agency. Reimbursement of the state emergency reserve fund may be treated as a fiscal emergency.

(f) Payment of debt service obligations under IC 6-1.1-2-9 shall be treated as a fiscal emergency.

Sec. 30. Funding for fiscal emergencies may not be included in the appropriations base for computing the expenditure limit for appropriations in subsequent years. Fiscal emergency appropriations shall remain separate from appropriations subject to limits imposed by this chapter and shall be assigned expiration dates.

Sec. 31. If upon audit or examination of the results of an audit of a political subdivision, the state board of accounts determines that:

(1) funds have been improperly accounted or budgeted for in order to avoid the limitations imposed by this chapter;

(2) funds have been improperly exempted from the limitations as provided in this chapter;

(3) general governmental functions have been improperly financed by user or service charges; or

(4) the limitations imposed by this chapter have been exceeded;

the state board of accounts shall notify the budget agency and the political subdivision through the appropriate officer or officers of the necessary corrective action. If after a reasonable time the

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political subdivision has not corrected the deficiency, the state board of accounts shall refer the matter to the attorney general.

Chapter 3. Adoption of Budget

Sec. 1. This chapter applies to budget years after December 31, 2004.

Sec. 2. The definitions in IC 36-1.3-2 apply throughout this chapter.

Sec. 3. Not later than July 1 of each year, the budget agency shall send a certified statement to each county auditor:

(1) estimating the expenditure limit for each political subdivision in the county; and

(2) computing the total amount of money that is available for distribution under IC 6-1.1-21-13 and IC 6-3.5 to the political subdivisions in the county for the last six (6) months of the current year and the next budget year.

Sec. 4. (a) Before August 2 of each year, a county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the budget agency. The statement must contain the expenditure limit for the political subdivision and an estimate of the revenues to be distributed to the political subdivision during:

(1) the last six (6) months of the current budget year; and

(2) the next budget year.

(b) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.

Sec. 5. When formulating an annual budget estimate, the proper officers of a political subdivision shall prepare an estimate of the amount of revenue that the political subdivision will receive from the state for and during the year for which the budget is being formulated. These estimated revenues shall be shown in the budget estimate and shall be taken into consideration in calculating any tax that will be imposed in the ensuing budget year.

Sec. 6. (a) The proper officers of a political subdivision shall formulate the political subdivision's estimated budget on the form prescribed by the state board of accounts.

(b) The political subdivision shall give notice to taxpayers of the estimated budget. In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published two (2) times in accordance with IC 5-3-1, with the first publication at least ten (10) days before the date fixed for the public hearing.

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(c) The county auditor of each county shall estimate the amount necessary to meet the cost of:

- (1) township assistance in each township of the county; and
- (2) meeting debt service obligations payable under IC 6-1.1-2-9;

for the ensuing budget year and publish with the county budget the estimated amount for each political subdivision.

(d) The board of directors of a solid waste management district established under IC 13-21-3-1 may conduct the public hearing required under subsection (b):

- (1) in any county of the solid waste management district; and
- (2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(e) Except as provided for the adoption of a supplemental budget, the officers of a political subdivision may not fix a budget that exceeds the amount published by the political subdivision. The part of a budget that exceeds the published amount is void.

Sec. 7. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

- (1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.
- (2) The fiscal body of a second class city, not later than September 30.
- (3) The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:
 - (A) the time required in IC 6-1.1-17-5.6(b); or
 - (B) September 20 if a resolution adopted under IC 6-1.1-17-5.6(d) is in effect.

- (4) The proper officers of all other political subdivisions, not later than September 20.

Except in a consolidated city and county and in a second class city, the public hearing required by section 6 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget. In a consolidated city and county and in a second class city, the public hearing by any committee or by the entire fiscal body may be held at any time after introduction of the budget.

(b) Each year at least two (2) days before the first meeting of the county board of tax adjustment, a political subdivision shall file

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with the county auditor two (2) copies of the budget adopted by the political subdivision for the ensuing budget year. Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(c) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (b), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

Sec. 8. (a) A county board of tax adjustment shall review the budget of each political subdivision. The board shall revise or reduce, but not increase, any budget in order to limit the budget to the:

- (1) expenditure limit under IC 36-1.3-2 or any other limitation on expenditures set by statute; and
- (2) amount of revenue to be available in the ensuing budget year.

(b) The county board of tax adjustment shall make a revision or reduction in a political subdivision's budget only with respect to the total amount budgeted for each office or department within each of the major budget classifications prescribed by the state board of accounts.

(c) When the county board of tax adjustment makes a revision or reduction in a budget, it shall file with the county auditor a written order that indicates the action taken. If the county board of tax adjustment reduces the budget, it shall also indicate the reason for the reduction in the order. The chairperson of the county board shall sign the order.

Sec. 9. If the boundaries of a political subdivision cross one (1) or more county lines, the budget fixed by the political subdivision shall be filed with the county auditor of each affected county in the manner prescribed in section 7 of this chapter. However, the county board of tax adjustment of the county that contains the largest part of the general money receivable by the political subdivision has jurisdiction over the budget to the same extent as if the property taxable by the political subdivision were wholly within the county. The secretary of the county board of tax adjustment shall notify the county auditor of each affected county of the action of the county board. Appeals from actions of the county board of tax adjustment may be initiated in any affected

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1 county.

2 Sec. 10. (a) If the county board of tax adjustment determines
3 that a fiscal emergency exists or another reason for adjusting the
4 expenditure limit of the political subdivision exists, the county
5 board shall file written recommendations in duplicate with the
6 county auditor. The county board shall include with the
7 recommendations information that the county board considers
8 relevant to the matter.

9 (b) The county auditor shall forward one (1) copy of the county
10 board's recommendations to the budget agency and shall retain the
11 other copy in the county auditor's office. The budget agency shall,
12 in the manner prescribed in section 18 of this chapter, review the
13 budgets of each political subdivision.

14 Sec. 11. (a) A county board of tax adjustment shall complete the
15 duties assigned to it under this chapter before October 2 of each
16 year, except that in a consolidated city and county and in a county
17 containing a second class city, the duties of the county board need
18 not be completed until November 1 of each year.

19 (b) If the county board of tax adjustment fails to complete the
20 duties assigned to it within the time prescribed in this section, the
21 county auditor shall carry out the duties of the county board.

22 (c) If the county auditor acts under subsection (b), the county
23 auditor shall send a certificate notice of actions taken by the county
24 auditor to each political subdivision of the county. The county
25 auditor shall send these notices within five (5) days after
26 publication of the notice required by section 14 of this chapter.

27 (d) If the county auditor acts under subsection (b), the action
28 shall be treated as if it were the action of the county board of tax
29 adjustment.

30 Sec. 12. A county auditor shall certify the budget of a political
31 subdivision in the county to the budget agency, if the budget, as
32 approved or modified by the county board of tax adjustment,
33 exceeds the:

- 34 (1) expenditure limit under IC 36-1.3-2 or any other limitation
- 35 on expenditures set by statute; or
- 36 (2) amount of revenue to be available in the ensuing budget
- 37 year.

38 Sec. 13. The budget of a political subdivision, as approved or
39 modified by the county board of tax adjustment, is final unless:

- 40 (1) action is taken by the county auditor in the manner
- 41 provided under section 11 of this chapter;
- 42 (2) the action of the county board is subject to review by the

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1 budget agency under section 10 or 12 of this chapter; or
 2 (3) an appeal to the budget agency is initiated with respect to
 3 the budget.

4 **Sec. 14.** When the budgets are approved or modified by a county
 5 board of tax adjustment, the county auditor shall within fifteen
 6 (15) days prepare a notice of the proposed changes in tax rates to
 7 be charged in the ensuing budget year in each taxing district. The
 8 notice shall also inform the taxpayers of the manner in which the
 9 taxpayers may initiate an appeal of the county board's action. The
 10 county auditor shall post the notice at the county courthouse and
 11 publish the notice in two (2) newspapers that represent different
 12 political parties and that have a general circulation in the county.

13 **Sec. 15.** Ten (10) or more taxpayers may initiate an appeal of a
 14 county board of tax adjustment's action on a political subdivision's
 15 budget by filing a statement of their objections with the county
 16 auditor. The statement must be filed within ten (10) days after the
 17 publication of the notice required by section 14 of this chapter. The
 18 statement shall specifically identify the provisions of the budget to
 19 which the taxpayers object. The county auditor shall forward the
 20 statement, with the budget, to the budget agency.

21 **Sec. 16.** A county auditor shall initiate an appeal to the budget
 22 agency if a county board of tax adjustment reduces a township
 23 assistance tax rate below the rate necessary to meet the estimated
 24 cost of township assistance.

25 **Sec. 17.** A political subdivision may appeal to the budget agency
 26 for an increase in the political subdivision's budget as fixed by the
 27 county board of tax adjustment or the county auditor. To initiate
 28 the appeal, the political subdivision must file a statement with the
 29 board within ten (10) days after publication of the notice required
 30 by section 14 of this chapter. The legislative body of the political
 31 subdivision must authorize the filing of the statement by adopting
 32 a resolution. The resolution must be attached to the statement of
 33 objections, and the statement must be signed by the following
 34 officers:

35 (1) In the case of counties, by the board of county
 36 commissioners and by the president of the county council.

37 (2) In the case of all other political subdivisions, by the highest
 38 executive officer and by the presiding officer of the legislative
 39 body.

40 **Sec. 18. (a)** Subject to the limitations and requirements
 41 prescribed in this section, the budget agency may revise, reduce, or
 42 increase a political subdivision's budget that the county tax

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adjustment board reviews under section 10 or 12 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the budget agency may review, revise, reduce, or increase the budget of a political subdivision whose budget is the subject of an appeal initiated under this chapter.

(c) Before the budget agency reviews, revises, reduces, or increases a political subdivision's budget under this section, the county board must hold a public hearing on the budget. The county board shall hold the hearing in the county in which the political subdivision is located. The county board may consider the budgets of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the county board shall give notice of the time and place of the hearing and of the budgets to be considered at the hearing. The board shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the board shall publish the notice in that newspaper.

(d) The budget agency may not increase a political subdivision's budget to an amount that exceeds the amount originally fixed by the political subdivision. The budget agency shall give the political subdivision written notification specifying any revision, reduction, or increase that the budget agency proposes. The political subdivision has one (1) week after the date the political subdivision receives the notice to provide a written response to the budget agency's Indianapolis office specifying how to make the required reductions in the amount budgeted for each office or department. The budget agency shall make reductions as specified in the political subdivision's response if the response is provided as required by this subsection and sufficiently specifies all necessary reductions. The budget agency may make a revision, a reduction, or an increase in a political subdivision's budget only in the total amounts budgeted for each office or department within each of the major budget classifications prescribed by the state board of accounts.

(e) The budget agency may not approve an appropriation for lease payments by a city, town, county, or library if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

- (1) no bonds of the building corporation are outstanding; or
- (2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from

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the particular lease rental levy requested.

(f) The action of the budget agency on a budget is final. The budget agency shall certify its action to:

(1) the county auditor; and

(2) the political subdivision.

(g) The budget agency shall complete the duties assigned to it under this section not later than February 15 of each year.

Sec. 19. (a) A political subdivision that in any year adopts a proposal to establish a cumulative fund or sinking fund under any of the following provisions must submit the proposal to the budget agency before August 2 of that year:

IC 3-11-6

IC 8-10-5

IC 8-16-3

IC 8-16-3.1

IC 8-22-3

IC 14-27-6

IC 14-33-21

IC 16-22-4

IC 16-22-8

IC 36-8-14

IC 36-9-4

IC 36-9-14

IC 36-9-14.5

IC 36-9-15

IC 36-9-15.5

IC 36-9-16

IC 36-9-17

IC 36-9-17.5

IC 36-9-26

IC 36-9-27

IC 36-10-3

IC 36-10-4

IC 36-10-7.5.

(b) If a proposal described in subsection (a) is not submitted to the budget agency before August 2 of a year, the political subdivision may not expend money from the cumulative fund or sinking fund in the ensuing year.

Sec. 20. The budget agency may at any time increase the budget of a political subdivision for the following reasons:

(1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of a political subdivision.

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(2) To pay the interest or principal on an outstanding obligation of the political subdivision.

(3) To pay a judgment rendered against the political subdivision.

Sec. 21. (a) This section applies to a political subdivision that is not a school corporation, county, city, town, or township.

(b) If:

(1) the boundaries of the political subdivision are entirely contained within a city or town; or

(2) the boundaries of the political subdivision are not entirely contained within a city or town but the political subdivision was originally established by the city or town;

the governing body shall submit its proposed budget to the city or town fiscal body. The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings under this chapter.

(c) If subsection (b) does not apply, the governing body of the political subdivision shall submit its proposed budget to the county fiscal body in the county in which the political subdivision has the largest share of its total area. The proposed budget shall be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(d) The fiscal body of the city, town, or county (whichever applies) shall review each budget and adopt a final budget for the political subdivision. The fiscal body may reduce or modify but not increase the proposed budget. However, the fiscal body may not reduce the proposed budget to an amount that is less than the amount necessary to meet reasonable operating costs of the political subdivisions and to pay the expenditures described in section 20 of this chapter.

Sec. 22. (a) Except as provided in subsections (b) and (c), a political subdivision may not expend funds that the political subdivision receives from the state and that the political subdivision is required to include in its budget estimate unless the funds are:

(1) included in a budget estimate by the political subdivision; and

(2) appropriated by the proper officers of the political subdivision in the amounts and for the specific purposes for which they may be used.

(b) The county council shall appropriate funds for the operation of the county highway department for the entire ensuing budget

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year for which annual appropriations are being made. The appropriation shall be for an amount that is not less than the greater of:

- (1) seventy-five percent (75%) of the total estimated money to be in the highway fund in the ensuing budget year; or
- (2) ninety-nine percent (99%) of the total estimated money to be in the highway fund in the ensuing budget year if the board of county commissioners files with the county council a four (4) year plan for the construction and improvement of county highways and a one (1) year plan for the maintenance and repair of county highways.

(c) In the event of a casualty, an accident, or an extraordinary emergency, the proper officers of a political subdivision may use state funds to make an additional appropriation under IC 36-1.3-4-1.

Chapter 4. Supplemental Budget; Miscellaneous Provisions

Sec. 1. If the proper officers of a political subdivision desire to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, the officers shall give notice of the proposed additional appropriation. The notice must state the date, time, and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with IC 5-3-1-2(b).

Sec. 2. The political subdivision must report the additional appropriation to the county auditor.

Sec. 3. A political subdivision other than a city, town, county, township, or school corporation must report the additional appropriation to the political subdivision to which the original budget must be reported under IC 36-3.1-3-21. The supplemental appropriation is subject to approval in the same manner as required under IC 36-3.1-3-21.

Sec. 4. After a public hearing, the proper officers of a political subdivision shall file a certified copy of the final proposal for an additional appropriation and other relevant information to the budget agency.

Sec. 5. (a) When the budget agency receives a certified copy of a final proposal for an additional appropriation under section 4 of this chapter, the budget agency shall determine whether:

- (1) sufficient funds are available or will be available for the proposal; and
- (2) the appropriation will not require the political subdivision to exceed its expenditure limitation or the fiscal emergency

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amount approved under IC 36-1.3-2.

The determination shall be made in writing and sent to the political subdivision within fifteen (15) days after the budget agency receives the proposal.

(b) In making the determination under subsection (a), the board shall limit the amount of the additional appropriation to revenues available or to be made available that have not been previously appropriated.

(c) If the budget agency disapproves an additional appropriation under subsection (a), the budget agency shall specify the reason for its disapproval on the determination sent to the political subdivision.

(d) A political subdivision may request a reconsideration of a determination of the budget agency under this section by filing a written request for reconsideration. A request for reconsideration must:

(1) be filed with the budget agency within fifteen (15) days of the receipt of the determination by the political subdivision; and

(2) state with reasonable specificity the reason for the request.

The budget agency must act on a request for reconsideration within fifteen (15) days of receiving the request.

Sec. 6. (a) The proper officers of a political subdivision may transfer money from one (1) major budget classification to another within a department or office if:

(1) the proper officers determine that the transfer is necessary;

(2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article;

(3) the transfer is made at a regular public meeting and by proper ordinance or resolution; and

(4) the transfer is certified to the county auditor.

(b) A transfer may be made under this section without notice and without the approval of the budget agency.

Sec. 7. The appropriating body of a political subdivision may appropriate funds received from an insurance company if:

(1) the funds are received as a result of damage to property of the political subdivision; and

(2) the funds are appropriated for the purpose of repairing or replacing the damaged property of the political subdivision.

However, this section applies only if the funds are expended to

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1 repair or replace the property of the political subdivision within
2 the twelve (12) month period after the funds are received.

3 **Sec. 8. Notwithstanding other provisions of this chapter, the**
4 **proper officer or officers of a political subdivision may:**

5 (1) reappropriate money recovered from erroneous or
6 excessive disbursements if the error and recovery are made
7 within the current budget year; or

8 (2) refund, without appropriation, money erroneously
9 received.

10 **Sec. 9. (a) If the proper officers of a political subdivision make**
11 **an appropriation for an item that exceeds the amount the officers**
12 **are permitted to appropriate under IC 36-1.3-2 or this chapter, the**
13 **officers commit malfeasance in office and are liable to the political**
14 **subdivision in an amount equal to the sum of one hundred**
15 **twenty-five percent (125%) of the excess appropriated and court**
16 **costs.**

17 (b) Upon the relation of a taxpayer who owns property that is
18 located in the political subdivision, the appropriate prosecuting
19 attorney shall initiate an action in the name of the state to recover
20 the amount for which the proper officers of the political
21 subdivision are liable under this section.

22 **Sec. 10. Except as provided in this chapter, the proper officers**
23 **of a political subdivision shall expend funds in a manner so that the**
24 **expenditures for a year do not exceed the budget for that year as**
25 **finally determined under this article.**

26 **Chapter 5. Bonding Limit**

27 **Sec. 1. As used in this chapter, "average total revenue" means**
28 **the result determined under sections 2 through 5 of this chapter.**

29 **Sec. 2. Except as provided in sections 4 and 5 of this chapter, the**
30 **average total revenue of a political subdivision is equal to the result**
31 **determined under STEP THREE of the following formula:**

32 **STEP ONE: Determine, for each of the three (3) budget years**
33 **immediately preceding the budget year in which the political**
34 **subdivision will incur a debt, the total receipts:**

35 (A) received by a political subdivision, including
36 distributions from the state but excluding the proceeds
37 from loans, the sale of property, the sale of bonds, or the
38 issuance of other debt; and

39 (B) available to pay the expenditures of the political
40 subdivision, including repayment of principal and interest
41 on debt.

42 **STEP TWO: Determine the sum of the amounts determined**

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under STEP ONE.

STEP THREE: Divide the amount determined under STEP TWO by three (3).

Sec. 3. Funds dedicated to a particular purpose may be included in the computation of average total revenue only to the extent that the funds are or may be pledged to repay any part of the debt of a political subdivision.

Sec. 4. The budget agency shall compute an average total revenue for a political or municipal subdivision that may issue debt less than three (3) budget years after the political subdivision is established based on an estimate of the receipts that the political subdivision will receive in the first full budget years after the debt is incurred.

Sec. 5. A political subdivision may include in the computation of average total revenue an amount that is:

(1) equal to an estimate of the amount the political subdivision will receive from a tax or fee that was not collected in any of the three (3) budget years preceding the budget year in which the political subdivision incurs a debt but is pledged to repay a debt; and

(2) approved by the budget agency.

Sec. 6. A political subdivision may not become indebted after December 31, 2005, in any manner or for any purpose to an amount that, in total, would result in payments of principal and interest in any year over the term of all debt that exceeds twenty percent (20%) of the average total revenues of the political subdivision previous to the incurring of such indebtedness.

Sec. 7. Subject to sections 8 and 9 of this chapter, all bonds or obligations of a political subdivision, that exceed the amount determined under section 6 of this chapter, are void.

Sec. 8. In time of war, foreign invasion, or other great public calamity, on petition of a majority of the property owners in number and value within the limits of such corporation, the public authorities may incur obligations necessary for the public protection and defense to the amount as may be requested in a petition.

Sec. 9. This chapter does not release or extinguish the debt of a political subdivision that has debt on January 1, 2006, exceeding the maximum debt limit allowed under section 6 of this chapter. However, the political subdivision may not incur an additional debt that will increase the total debt of the political subdivision until the political subdivision is in compliance with section 6 of this chapter.

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Chapter 6. Review of Bonds and Leases

Sec. 1. This chapter applies to all political subdivisions for bonds or leases.

Sec. 2. For purposes of this chapter, "bonds" means any bonds or other evidences of indebtedness payable from property taxes for a controlled project. The term does not include:

- (1) notes representing loans under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 that are payable within five (5) years after issuance;**
- (2) warrants representing temporary loans that are payable out of taxes levied and in the course of collection;**
- (3) a lease;**
- (4) exempt obligations; or**
- (5) funding, refunding, or judgment funding bonds of political subdivisions.**

Sec. 3. As used in this chapter, "controlled project" means any project financed by bonds or a lease, except for the following:

- (1) A project for which the political subdivision reasonably expects to pay:**
 - (A) debt service; or**
 - (B) lease rentals;****from funds other than property taxes that are exempt from the expenditure limitation under IC 36-3.1. A project is not a controlled project even though the political subdivision has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient.**
- (2) A project that will not cost the political subdivision more than two million dollars (\$2,000,000).**
- (3) A project that is being refinanced for the purpose of providing gross or net present value savings to taxpayers.**
- (4) A project for which bonds were issued or leases were entered into before January 1, 1996, or for which the state board of tax commissioners has approved the issuance of bonds or the execution of leases before January 1, 1996.**
- (5) A project that is required by a court order holding that a federal law mandates the project.**

Sec. 4. As used in this chapter, "debt service" means principal of and interest on bonds. The term includes the repayment of an advance from the common school fund under IC 21-1-5-3.

Sec. 5. As used in this chapter, "exempt obligations" refers to a contract or promise to pay of a political subdivision that would be considered a bond or lease under this chapter but for the fact that

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1 it is payable solely from funds other than property taxes.

2 Sec. 6. As used in this chapter, "lease" means a lease by a
3 political subdivision of any controlled project with lease rentals
4 payable from property taxes that are exempt from the expenditure
5 limitations under IC 36-3.1-2.

6 Sec. 7. As used in this chapter, "lease rentals" means the
7 payments required under a lease.

8 Sec. 8. As used in this chapter, "project" means any project or
9 purpose for which a political subdivision may issue bonds or enter
10 into leases, including a sale-lease back of an existing building.

11 Sec. 9. A political subdivision may, subject to the limitations
12 provided by law, issue any bonds, notes, or warrants, or enter into
13 any leases or obligations that the political subdivision considers
14 necessary.

15 Sec. 10. (a) When the governing body of a political subdivision
16 decides to issue bonds in a total amount that exceeds five thousand
17 dollars (\$5,000), the governing body shall give notice of the decision
18 by:

19 (1) posting; and

20 (2) publishing once each week for two (2) weeks.

21 The notice required by this section shall be posted in three (3)
22 public places in the political subdivision and published in
23 accordance with IC 5-3-1-4. The decision to issue bonds may be a
24 preliminary decision.

25 (b) Ten (10) or more taxpayers who will be affected by the
26 proposed issuance of the bonds and who wish to object to the
27 issuance on the grounds that it is unnecessary or excessive may file
28 a petition in the office of the auditor of the county in which the
29 political subdivision is located. The petition must be filed within
30 fifteen (15) days after the notice required by subsection (a) is given,
31 and the petition must contain the objections of the taxpayers and
32 facts that show that the proposed issue is unnecessary or excessive.
33 When taxpayers file a petition in the manner prescribed in this
34 subsection, the county auditor shall immediately forward a
35 certified copy of the petition and any other relevant information to
36 the budget agency.

37 Sec. 11. (a) Upon receipt of a certified petition filed in the
38 manner prescribed in section 10 of this chapter, the budget agency
39 shall fix a date, time, and place for a hearing on the matter. The
40 budget agency shall hold the hearing at least five (5) and not more
41 than thirty (30) days after the department receives the petition, and
42 the department shall hold the hearing in the political subdivision

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or in the county in which the political subdivision is located. At least five (5) days before the date fixed for the hearing, the budget agency shall give notice of the hearing, by mail, to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition. The mailings shall be addressed to the executive officer and to the taxpayers at their usual place of residence.

(b) After the hearing required by this section, the budget agency may approve, disapprove, or reduce the amount of the proposed issue. The budget agency must render a decision not later than three (3) months after the hearing, and if no decision is rendered within that time, the issue is considered approved unless the department takes the extension provided for in this section. A three (3) month extension of the period during which the decision must be rendered may be taken by the budget agency if the department gives notice by mail of the extension to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition at least ten (10) days before the end of the original three (3) month period. If no decision is rendered within the extension period, the issue is considered approved.

(c) A:

- (1) taxpayer who signed a petition referred to in subsection (a); or
- (2) political subdivision against which a petition referred to in subsection (a) is filed;

may petition for judicial review of the final determination of the budget agency under subsection (b). The petition must be filed in the tax court not more than forty-five (45) days after the budget agency renders its decision under subsection (b).

Sec. 12. A political subdivision may not pay debt service or lease rentals for a controlled project without completing the following procedures:

- (1) The governing body of a political subdivision shall:
 - (A) publish notice in accordance with IC 5-3-1; and
 - (B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;
- of any meeting to consider the adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before the adoption of the resolution or ordinance.

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(2) When the governing body of a political subdivision makes a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs that the political subdivision expects to incur annually to operate the facility.

(4) After notice under subdivision (2) is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) registered voters within the political subdivision; or

(B) five percent (5%) of the owners of real property within the political subdivision.

(5) The state board of accounts shall design and, on request by the county auditor, deliver to the county auditor, or the county auditor's designated printer, the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real

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property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county auditor under subdivision (7).

(7) Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county auditor must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within fifteen (15) business days after the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by qualified petitioners under this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

Sec. 13. If a sufficient petition requesting a petition and remonstrance process has been filed as set forth in section 12 of this chapter for a controlled project, a political subdivision may

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1 not pay debt service or lease rentals without completing the
2 following procedures:

3 (1) The governing body of the political subdivision shall give
4 notice of the applicability of the petition and remonstrance
5 process by:

6 (A) publication in accordance with IC 5-3-1; and

7 (B) first class mail to the organizations described in section
8 12(1)(B) of this chapter.

9 A notice under this subdivision must include a statement that
10 any registered voters or owners of real property within the
11 political subdivision who want to petition in favor of or
12 remonstrate against the proposed debt service or lease
13 payments must file petitions and remonstrances in compliance
14 with subdivisions (2) through (4) not earlier than thirty (30)
15 days and not later than sixty (60) days after publication in
16 accordance with IC 5-3-1.

17 (2) Not earlier than thirty (30) days and not later than sixty
18 (60) days after the notice under subdivision (1) is given:

19 (A) petitions (as described in subdivision (3)) in favor of
20 the bonds or lease; and

21 (B) remonstrances (as described in subdivision (3)) against
22 the bonds or lease;

23 may be filed by a registered voter or an owner or owners of
24 real property within the political subdivision. Each signature
25 on a petition must be dated, and the date of signature may not
26 be before the date on which the petition and remonstrance
27 forms may be issued under subdivision (3). A petition under
28 clause (A) or a remonstrance under clause (B) must be
29 verified in compliance with subdivision (4) before the petition
30 or remonstrance is filed with the county auditor under
31 subdivision (4).

32 (3) The state board of accounts shall design and, on request by
33 the county auditor, deliver to the county auditor, or the
34 county auditor's designated printer, the petition and
35 remonstrance forms to be used solely in the petition and
36 remonstrance process described in this section. The county
37 auditor shall issue to a registered voter or an owner or owners
38 of real property within the political subdivision the number of
39 petition or remonstrance forms requested by the registered
40 voter or owner or owners. Each form must be accompanied
41 by instructions detailing the requirements that:

42 (A) the carrier and signers must be registered voters or

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owners of real property in the school district;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 12 of this chapter.

Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners. The county auditor may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county auditor shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county auditor within the sixty (60) day period described in subdivision (2) in the manner set forth in section 12 of this chapter relating to requests for a petition and remonstrance process.

(5) The county auditor must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within fifteen (15) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county auditor may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are registered voters or owners of real property within the political subdivision.

(6) If a greater number of registered voters or owners of real property within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The governing body of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the

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petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county auditor's certificate under subdivision (5). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(7) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 10 of this chapter and IC 6-1.1-20-5).

Sec. 14. When the governing body of a political subdivision decides to issue bonds to finance a public improvement that is a controlled project, the governing body shall adopt an ordinance or a resolution that sets forth the determination to issue the bonds. The political subdivision may not advertise for or receive bids for the construction of the improvement until the expiration of the later of:

- (1) the period within which taxpayers may file a petition for review of or a remonstrance against the proposed issue; or
- (2) the period during which a petition for review of the proposed issue is pending before the budget agency.

Sec. 15. (a) If a petition and remonstrance process is commenced under section 13 of this chapter for a controlled project, during the sixty (60) day period commencing with the notice under section 12(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

- (1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.
- (2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance (except as necessary to explain the project to the public) or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a construction manager, or a financial adviser for professional services

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provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to the students' residences; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the school corporation from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

SECTION 70. IC 36-1-2-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.2. "Consolidated city" refers to a first class city that has become a consolidated city under IC 36-3-1.

SECTION 71. IC 36-1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Except as provided in ~~subsection~~ subsections (b) and (c), a unit may exercise any power it has to the extent that the power:

(1) is not expressly denied by the **Constitution of the State of Indiana** ~~Constitution~~ or by statute; and

(2) is not expressly granted to another entity.

(b) A township may not exercise power the township has if another unit in which all or part of the township is located exercises that same power.

(c) A unit may exercise the power of another entity if:

(1) the exercise is in accordance with a reorganization plan under IC 36-12 that reorganizes both the unit and the other entity; and

(2) the reorganized unit is not expressly prohibited from exercising the power by statute, rule, or other law.

SECTION 72. IC 36-1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The area inside the boundaries of a county comprises its territorial jurisdiction. However, a municipality has exclusive jurisdiction over bridges (subject to IC 8-16-3-1), streets, alleys, sidewalks, watercourses,

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sewers, drains, and public grounds inside its corporate boundaries, unless a statute provides otherwise.

(b) The area inside the corporate boundaries of a municipality comprises its territorial jurisdiction, except to the extent that a statute expressly authorizes the municipality to exercise a power in areas outside its corporate boundaries.

(c) Whenever a statute authorizes a municipality to exercise a power in areas outside its corporate boundaries, the power may be exercised:

(1) inside the corporate boundaries of another municipality, only if:

(A) both municipalities, by ordinance, enter into an agreement under IC 36-1-7; or

(B) the power is exercised in accordance with a reorganization plan under IC 36-12 that reorganizes both municipalities; or

(2) in a county other than the county in which the municipal hall is located, but not inside the corporate boundaries of another municipality, only if both the municipality and the other county, by ordinance, enter into an agreement under IC 36-1-7.

(d) If the two (2) units involved under subsection (c) cannot reach an agreement, either unit may petition the circuit or superior court of the county to hear and determine the matters at issue. The clerk of the court shall issue notice to the other unit as in other civil actions, and the court shall hold the hearing without a jury. There may be a change of venue from the judge but not from the county. The petitioning unit shall pay the costs of the action.

SECTION 73. IC 36-1-8-5, AS AMENDED BY P.L.173-2003, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This section applies to all funds ~~raised by a general or special tax levy on all the taxable property of available to~~ a political subdivision.

(b) Whenever the purposes of ~~a tax levy money in a fund~~ have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

(1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.

(2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.

(3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the

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township, as provided in section 5.1 of this chapter.

(4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a ~~current tax levy for the fund~~ **balance** is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township. ~~but~~ **However**, if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund **under this section** must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

SECTION 74. IC 36-1-8-5.1, AS AMENDED BY P.L.173-2003, SECTION 19 AND P.L.267-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~by the adoption of:~~

~~(1) an ordinance, in the case of a county, city, or town; or~~
~~(2) a resolution, in the case of any other political subdivision; (b) An ordinance or a resolution adopted under this section must specify the following:~~

~~(1) The purposes of the rainy day fund:~~

~~(2) The sources of funding for the rainy day fund:~~

~~(c) to receive transfers of unused and unencumbered funds under (1)~~
 section 5 of this chapter **an to receive funds under:**

~~(2) (1) IC 6-3.5-1.1-21.1;~~

~~(3) (2) IC 6-3.5-6-17.3; and~~

~~(4) (3) IC 6-3.5-7-17.3;~~

(b) Money in a rainy day fund may be used for any governmental purpose of the political subdivision. The rainy day fund is subject to the same appropriation process as other funds that

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receive tax money. Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund. **It is the intent of the general assembly that money in a rainy day fund be used only to:**

- (1) pay extraordinary expenses of a political subdivision that could not have been foreseen when tax rates were advertised and set for the year in which the obligations became due; and
- (2) replace revenues from other sources in years in which tax receipts and other revenues are reduced because of economic conditions, war, foreign invasion, or other great public calamity.

A political subdivision may not guarantee the repayment of a debt or pledge to repay debt from money in a rainy day fund.

~~(d)~~ (c) This subsection applies only to amounts transferred to a rainy day fund under section 5 of this chapter. In any fiscal year, a political subdivision may transfer ~~under section 5 of this chapter~~ not more than ten percent (10%) of the political subdivision's total ~~annual~~ budget ~~adopted under IC 6-1.1-17, for that fiscal year~~ to the rainy day fund.

~~(e)~~ A political subdivision may use only the funding sources specified in the ordinance or resolution establishing the rainy day fund unless the political subdivision adopts a subsequent ordinance or resolution authorizing the use of another funding source.

(d) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 75. IC 36-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of 250,000 600,000 or more	First class cities
Cities of 35,000 to 249,999 599,999	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

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SECTION 76. IC 6-1.1-21.3 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JANUARY 1, 2006]:

**Chapter 21.3. Replacement of Property Tax Levies in Allocation
Areas**

**Sec. 1. As used in this chapter, "allocation area" refers to an area
that is established under the authority of any of the following
statutes and in which tax increment revenues are collected:**

- (1) IC 6-1.1-39.
- (2) IC 8-22-3.5.
- (3) IC 36-7-14.
- (4) IC 36-7-14.5.
- (5) IC 36-7-15.1.
- (6) IC 36-7-30.

**Sec. 2. As used in this chapter, "base assessed value" means the
base assessed value as that term is defined in IC 6-1.1-39-5(h),
IC 8-22-3.5-9(a), IC 36-7-14-39(a), IC 36-7-15.1-26(a),
IC 36-7-15.1-35(a), or IC 36-7-30-25(a)(2).**

**Sec. 3. As used in this chapter, "governing body" means the
following:**

- (1) For an allocation area created under IC 6-1.1-39, the fiscal
body of the county (as defined in IC 36-1-2-6).
- (2) For an allocation area created under IC 8-22-3.5, the
commission (as defined in IC 8-22-3.5-2).
- (3) For an allocation area created under IC 36-7-14, the
redevelopment commission of the unit.
- (4) For an allocation area created under IC 36-7-14.5, the
authority created by the unit.
- (5) For an allocation area created under IC 36-7-15.1, the
metropolitan development commission of the consolidated city.
- (6) For an allocation area created under IC 36-7-30, the
military base reuse authority.

**Sec. 4. As used in this chapter, "obligation" means an obligation
to repay:**

- (1) the principal and interest on bonds;
- (2) lease rentals on leases; or
- (3) any other contractual obligation;

**payable from tax increment revenues. The term includes a
guarantee of repayment from tax increment revenues if other
revenues are insufficient to make a payment.**

Sec. 5. As used in this chapter, "property taxes" means:

- (1) property taxes, as defined in IC 6-1.1-39-5(g),

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1 IC 36-7-14-39(a), IC 36-7-15.1-26(a), and IC 36-7-30-25(a)(3);

2 or

3 (2) for allocation areas created under IC 8-22-3.5, the taxes
4 assessed on taxable tangible property in the allocation area.

5 Sec. 6. As used in this chapter, "tax increment revenues" means
6 the property taxes attributable to the assessed value of property
7 that exceeds the base assessed value.

8 Sec. 7. (a) This chapter applies to an allocation area in which:

9 (1) the holders of obligations received a pledge of tax increment
10 revenues to repay a part of the obligations due after December
11 31, 2005; and

12 (2) the elimination of property tax levies under IC 6-1.1-2-8
13 adversely affects the ability of the governing body to repay the
14 obligations described in subdivision (1).

15 (b) A governing body may use one (1) or more of the procedures
16 described in sections 8 and 9 of this chapter to provide sufficient
17 funds to repay the obligations described in subsection (a).

18 Sec. 8. (a) A governing body may, after a public hearing, impose
19 a special assessment on the owners of property that is located in an
20 allocation area to repay a bond or an obligation described in
21 section 7 of this chapter that comes due after December 31, 2005.

22 (b) Before a public hearing under subsection (a) may be held, the
23 governing body must publish notice of the hearing under IC 5-3-1.
24 The notice must state that the governing body will meet to consider
25 whether a special assessment should be imposed under this chapter
26 and whether the special assessment will help the governing body
27 realize the redevelopment or economic development objectives for
28 the allocation area or honor its obligations related to the allocation
29 area. The notice must also name a date when the governing body
30 will receive and hear remonstrances and objections from persons
31 affected by the special assessment. All persons affected by the
32 hearing, including all taxpayers within the allocation area, shall be
33 considered notified of the pendency of the hearing and of
34 subsequent acts, hearings, and orders of the governing body by the
35 notice. At the hearing, which may be adjourned from time to time,
36 the governing body shall hear all persons affected by the
37 proceedings and shall consider all written remonstrances and
38 objections that have been filed. The only grounds for remonstrance
39 or objection are that the special assessment will not help the
40 governing body realize the redevelopment or economic
41 development objectives for the allocation area or honor its
42 obligations related to the allocation area. After considering the

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evidence presented, the governing body shall take final action concerning the proposed special assessment. The final action taken by the governing body shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by subsection (c).

(c) A person who filed a written remonstrance with a governing body under subsection (b) and is aggrieved by the final action taken may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court a copy of the order of the governing body and the person's remonstrance or objection against that final action, together with a bond conditioned to pay the costs of appeal if the appeal is determined against the person. The only ground of remonstrance or objection that the court may hear is whether the proposed assessment will help achieve the redevelopment of economic development objectives for the allocation area or honor its obligations related to the allocation area. An appeal under this subsection shall be promptly heard by the court without a jury. All remonstrances or objections on which an appeal has been taken must be consolidated, heard, and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances or objections, and may confirm the final action of the governing body or sustain the remonstrances or objections. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

(d) A special assessment shall be imposed and collected in the same manner as ad valorem property taxes are imposed and collected.

Sec. 9. If a governing body does not impose a special assessment under section 8 of this chapter, the governing body may, in order to provide sufficient funds to repay the obligations described in section 7(a) of this chapter, use any tax increment revenues that exceed:

- (1) the amount pledged to pay the principal and interest of obligations; and
- (2) any amounts used to provide debt service reserve for obligations payable solely or in part from tax increment revenues or from other revenues.

SECTION 77. IC 36-8.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

ARTICLE 8.5. PUBLIC SAFETY SPECIAL ASSESSMENTS

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Chapter 1. Definitions

Sec. 1. Except as provided in section 4 of this chapter, the definitions in IC 6-1.1-1 apply throughout this article.

Sec. 2. "Public safety cost" means a cost to a taxing unit that may be funded by the taxing unit by the imposition of property taxes and is incurred to establish, maintain, operate, or provide facilities or equipment for, contract for, finance, or repay a judgment or other obligation related to any of the following:

(1) A police and law enforcement system to preserve public peace and order.

(2) A firefighting and fire prevention system.

(3) Emergency ambulance services (as defined in IC 16-18-2-107), except as part of a levy for a county hospital under IC 16-22 or a municipal hospital under IC 16-23.

(4) Emergency medical services (as defined in IC 16-18-2-110), except as part of a levy for a county hospital under IC 16-22 or a municipal hospital under IC 16-23.

(5) Emergency action (as defined in IC 13-11-2-65).

(6) A court.

(7) A probation department of a court.

(8) Confinement, supervision, services under a community correction program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:

(A) diverted before a final hearing or trial under an agreement that:

(i) is between the county prosecutor and the person or the person's custodian, guardian, or parent; and

(ii) provides for confinement, supervision, community correction services, or other correctional services instead of a final action described in clause (B) or (C);

(B) convicted of a crime; or

(C) adjudicated as a delinquent child or a child in need of services in a facility.

(9) A juvenile detention facility under IC 31-31-8.

(10) A juvenile detention center under IC 31-31-9.

(11) A county jail.

(12) A communications system (as defined in IC 36-8-15-3) or an enhanced emergency telephone system (as defined in IC 36-8-16-2).

(13) Pension payments for any of the following:

(A) A member of the fire department (as defined in IC 36-8-1-8) or any other employee of a fire department.

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(B) A member of the police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by a police department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

Sec. 3. "Special assessments" means public safety special assessments imposed under IC 36-8.5-2.

Sec. 4. "Taxing unit" means:

(1) a unit; or

(2) a fire protection district.

Chapter 2. Imposition of Special Assessments

Sec. 1. Except as provided in sections 2 and 3 of this chapter, public safety special assessments are payable each calendar year with respect to:

(1) a one (1) or two (2) family dwelling, including the curtilage related to the dwelling, that is used as a residence, regardless of whether it is used as a residence by the owner or rented for residential purposes; and

(2) other tangible property exempt from property taxes under IC 6-1.1-10.

Sec. 2. Special assessments are not payable with respect to:

(1) a building or structure that is exempt from property taxes:

(A) under:

(i) IC 6-1.1-10-1;

(ii) IC 6-1.1-10-2;

(iii) IC 6-1.1-10-3;

(iv) IC 6-1.1-10-4;

(v) IC 6-1.1-10-5;

(vi) IC 6-1.1-10-5.5;

(vii) IC 6-1.1-10-6;

(viii) IC 6-1.1-10-7;

(ix) IC 6-1.1-10-8;

(x) IC 6-1.1-10-15;

(xi) IC 6-1.1-10-16.7;

(xii) IC 6-1.1-10-17;

(xiii) IC 6-1.1-10-19;

(xiv) IC 6-1.1-10-21; or

(xv) IC 6-1.1-10-38; or

(B) under IC 6-1.1-10-16 and used:

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- 1 (i) for religious worship; or
 2 (ii) as a parsonage;
 3 (2) personal property that is exempt from property taxes:
 4 (A) under a section listed in subdivision (1)(A); or
 5 (B) under IC 6-1.1-10-16 and used for religious worship; and
 6 (3) land:
 7 (A) that is exempt from property taxes under a section listed
 8 in subdivision (1)(A); or
 9 (B) on which a building or structure referred to in
 10 subdivision (1) is located.

11 **Sec. 3. Special assessments are not payable with respect to**
 12 **property in a calendar year to the extent that payments in lieu of**
 13 **taxes are:**

- 14 (1) paid with respect to the property in the calendar year; and
 15 (2) used by a taxing unit to pay public safety costs.

16 **Sec. 4. (a) Special assessments are payable in each calendar year**
 17 **after December 31, 2005, based on:**

- 18 (1) the assessed value of:
 19 (A) the real property associated with each parcel; and
 20 (B) the personal property reportable on each personal
 21 property return;

22 **for the assessment date in the calendar year that immediately**
 23 **precedes the calendar year in which the special assessments are**
 24 **payable; and**

- 25 (2) subject to subsection (b), the following schedule:

26 ASSESSED VALUE	ANNUAL SPECIAL ASSESSMENT
27 Less than \$25,000	\$0
28 At least \$25,000 but less than \$50,000	\$100
29 At least \$50,000 but less than \$100,000	\$200
30 At least \$100,000 but less than \$150,000	\$400
31 At least \$150,000 but less than \$200,000	\$600
32 At least \$200,000 but less than \$250,000	\$800
33 At least \$250,000 but less than \$300,000	\$1,000
34 At least \$300,000 but less than \$500,000	\$1,500
35 At least \$500,000 but less than \$750,000	\$2,000
36 At least \$750,000 but less than \$1,000,000	\$3,000
37 At least \$1,000,000	\$5,000

38 (b) For each year after 2006, the budget agency shall annually
 39 adjust the annual amount in subsection (a)(2) to reflect changes in
 40 inflation, using the average of the percentage increase in the
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Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics, for the twelve (12) month period ending in September immediately preceding the beginning of the year in which the adjustment is to be applied. The budget agency shall distribute the adjusted schedule to each county auditor and each political subdivision that provides public safety services. The amount of the special assessment for a year is equal to the greater of the amount determined under subsection (a)(2) or the adjusted amount determined under this subsection.

Sec. 5. The county treasurer shall distribute collections from special assessments each year to each taxing unit in the county in the amount that bears the same proportion to the total special assessment collections in the county for the year as the amount appropriated by the taxing unit for the year to pay public safety costs, as determined by the budget agency under IC 36-1.3, bears to the total appropriations by all taxing units in the county for the year to pay public safety costs.

Sec. 6. The budget agency shall reduce the levy that the budget agency certifies under IC 36-1.3 for each year for a taxing unit under IC 6-1.1-2-10 by the amount of revenue from special assessments the department estimates the taxing unit will receive in the calendar year for which the levy is certified.

Sec. 7. The township assessors shall assess the tangible property subject to special assessments in the same manner that assessments are determined under IC 6-1.1.

Sec. 8. Special assessments under this chapter:

- (1) are collected in the same manner that other special assessments are collected;
- (2) may be used by a taxing unit only to pay public safety costs; and
- (3) are otherwise treated in the same manner as other special assessments for purposes of all procedural and substantive provisions of law.

SECTION 78. IC 36-12 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

ARTICLE 12. REORGANIZATION OF MUNICIPAL CORPORATIONS

Chapter 1. Applicability and Definitions

Sec. 1. This article applies to all counties except a county containing a first class city.

Sec. 2. The definitions in this chapter apply throughout this

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1 article.

2 Sec. 3. "Appointing authority" refers to a person who appoints
3 a member of a government reorganization commission.

4 Sec. 4. "Commission" refers to a government reorganization
5 commission established under this chapter.

6 Sec. 5. "Excluded municipality" means:

7 (1) a third class city; or

8 (2) a town;

9 that acts under IC 36-12-4 to be excluded from government
10 reorganization.

11 Sec. 6. "Included municipality" means:

12 (1) a city; or

13 (2) a town;

14 that does not act under IC 36-12-4 to be excluded from government
15 reorganization.

16 Sec. 7. "Initial appointment of all members" means the
17 appointment of members under IC 36-12-3-3. The term does not
18 include the filling of vacancies on the commission or an
19 appointment under IC 36-12-4-3.

20 Sec. 8. "Municipal corporation" means a county, city, town,
21 township, library district, local housing authority, fire protection
22 district, public transportation corporation, local building
23 authority, local hospital authority or corporation, local airport
24 authority, special service district, or any other separate local
25 governmental entity that may sue and be sued. The term does not
26 include a special taxing district or a school corporation.

27 Sec. 9. "Municipality" means a city or a town.

28 Sec. 10. "Person" means an individual, a corporation, a limited
29 liability company, a partnership, a governmental agency, a
30 political subdivision, or other legal entity.

31 Sec. 11. "Plan" refers to a government reorganization plan
32 developed under this article.

33 Sec. 12. "Special service district" refers to a separate taxing
34 district within which a municipal corporation levies and collects
35 taxes in accordance with the kind, type, level, and character of
36 services provided in the district.

37 Chapter 2. General Reorganization Powers

38 Sec. 1. A municipal corporation may reorganize as set forth in
39 this article by changing any of the following:

40 (1) Governmental structure, including:

41 (A) consolidating or merging municipal corporations;

42 (B) consolidating or merging agencies, departments,

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commissions, or services of municipal corporations; or

(C) eliminating or creating a municipal corporation.

(2) Governmental finance.

(3) Governmental services.

(4) Governmental efficiency.

Sec. 2. A charter school may not be established under this article.

Sec. 3. A reorganized municipal corporation is subject to audit by the state board of accounts under IC 5-11-1-9.

Sec. 4. A reorganized municipal corporation is subject to the home rule provisions set forth in IC 36-1-3.

Sec. 5. A reorganized municipal corporation is subject to the following:

(1) Any general law of the state that does not conflict with the powers granted to a reorganized municipal corporation under this article.

(2) Statutes, laws, or rules that specifically govern a reorganized municipal corporation.

(3) The charter of the reorganized municipal corporation.

(4) Ordinances, resolutions, or bylaws of the reorganized municipal corporation.

Sec. 6. A reorganized municipality may not diminish the rights or privileges of any former municipal employee or present municipal employee in the employee's pension or retirement system.

Chapter 3. Government Reorganization Commission

Sec. 1. Before a municipal corporation may reorganize under this article, a commission must be established.

Sec. 2. A commission is established when:

(1) the county fiscal body and the fiscal body of each second class city within the county (or if the county does not have any second class cities, the fiscal body of at least one (1) third class city or town) adopt a resolution to establish a commission; or

(2) a resident of the county files with the county election board a petition that:

(A) is signed by the number of registered voters equal to at least five percent (5%) of the votes cast within the county in the most recent general election for the office of secretary of state;

(B) asks that a commission be established under this chapter; and

(C) requests a local public question on the question of government reorganization.

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1 **Sec. 3. Appointing authorities shall appoint members of a**
 2 **commission not more than sixty (60) days after a commission is**
 3 **established.**

4 **Sec. 4. (a) Subject to section 5 of this chapter, appointments shall**
 5 **be made as follows:**

6 **(1) If the county has at least one (1) second class city, the**
 7 **executive of each second class city in the county shall make a**
 8 **number of appointments equal to the quotient determined by**
 9 **dividing the population of the city by thirty thousand (30,000).**

10 **(2) If the county has at least one (1) second class city, the fiscal**
 11 **body of each second class city in the county shall make the**
 12 **same number of appointments that are allocated to the city's**
 13 **executive under subdivision (1).**

14 **(3) The county executive shall make a number of appointments**
 15 **equal to the quotient determined by dividing the population of**
 16 **the county by thirty thousand (30,000).**

17 **(4) The county fiscal body shall make a number of**
 18 **appointments equal to the number of appointments allocated**
 19 **to the county executive under subdivision (3).**

20 **(5) If the county has one (1) third class city, the executive of a**
 21 **third class city shall make a number of appointments equal to**
 22 **the quotient determined by dividing the population of the city**
 23 **by fifteen thousand (15,000). However, if the third class city**
 24 **has a population of less than fifteen thousand (15,000), the**
 25 **executive of the city shall make one (1) appointment.**

26 **(6) If the county has more than one (1) third class city, the**
 27 **executives of all third class cities in a county with more than**
 28 **one (1) third class city shall jointly make a number of**
 29 **appointments equal to the quotient determined by the**
 30 **following formula:**

31 **STEP ONE: Add the populations of all third class cities**
 32 **within the county.**

33 **STEP TWO: Divide the number determined in STEP ONE**
 34 **by fifteen thousand (15,000).**

35 **(7) If the county has at least one (1) town, the town fiscal bodies**
 36 **shall jointly make a number of appointments equal to the**
 37 **quotient determined by the following formula:**

38 **STEP ONE: Add the populations of all towns within the**
 39 **county.**

40 **STEP TWO: Divide the number determined in STEP ONE**
 41 **by fifteen thousand (15,000).**

42 **However, if the number determined in STEP ONE is less than**

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1 fifteen thousand (15,000), the town fiscal bodies shall jointly
2 make one (1) appointment.

3 (8) The trustees of each township in the county shall jointly
4 appoint two (2) members.

5 (b) The commission may adopt a resolution to have additional
6 advisory members appointed by political subdivisions other than
7 a city, town, or county.

8 Sec. 5. For the purpose of determining the exact number of
9 appointments under section 4 of this chapter, a quotient must be
10 rounded to the nearest whole number as follows:

11 (1) Rounding the quotient to a higher number if the quotient is
12 a whole number with a fraction that is at least five-tenths (0.5).

13 (2) Rounding the quotient to a lower number if the quotient is
14 a whole number with a fraction that is less than five-tenths
15 (0.5).

16 Sec. 6. An appointing authority may not appoint more than one
17 (1) commission member who is an elected official.

18 Sec. 7. A member of the commission must be a resident of the
19 county that is the subject of the commission.

20 Sec. 8. A commission member may not receive:

21 (1) a salary; or

22 (2) a per diem;

23 for performance of the commission member's duties. The member
24 may receive reimbursement for expenses necessarily incurred in
25 the performance of the commission member's duties.

26 Sec. 9. Except as provided in IC 36-12-4, if a vacancy occurs on
27 a commission, the appointing authority for that position shall
28 appoint a person to fill the vacancy.

29 Sec. 10. If a member fails to attend three (3) consecutive meetings
30 of a commission, the member is removed from the commission.

31 Sec. 11. (a) This section applies to a commission established
32 under section 2(1) of this chapter.

33 (b) The expenses of the commission may be paid from:

34 (1) any public funds that are not prohibited from being
35 expended for this purpose by state, federal, or local law; and

36 (2) private funds.

37 (c) Any expenses of the commission that are not paid from the
38 funds described under subsection (b), shall be paid by the county
39 and each included city and town in proportion to its population.
40 For purposes of determining a county's share of the expenses, only
41 the population of the county in the unincorporated areas and in the
42 excluded cities and towns shall be used to compute the population

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1 of the county.

2 Sec. 12. (a) This section applies to a commission established
3 under section 2(2) of this chapter.

4 (b) The expenses of the commission may be paid from any
5 combination of the following:

- 6 (1) The county general fund.
- 7 (2) The general fund of an included city or town.
- 8 (3) Any public funds that are not prohibited from being
9 expended for this purpose by state, federal, or local law.
- 10 (4) Private funds.

11 Sec. 13. Private funds donated to a commission may be used:

- 12 (1) to promote approval of a public question on government
13 reorganization; and
- 14 (2) for any other commission purpose.

15 Sec. 14. A commission may do the following and pay the
16 associated costs:

- 17 (1) Employ staff.
- 18 (2) Obtain secretarial, clerical, professional, or consultant
19 services.
- 20 (3) Engage in public information or education activities.
- 21 (4) Administer and perform the responsibilities of the
22 commission under this chapter.

23 Sec. 15. Subject to IC 36-12-4-4, an affirmative vote of a majority
24 of the members appointed to the commission is required for the
25 commission to take any action, including adopting a report.

26 Chapter 4. Excluded Municipalities

27 Sec. 1. (a) Except as provided in subsection (b), if the fiscal body
28 of a town or third class city adopts a resolution to exclude the
29 municipality from government reorganization, the municipality is
30 excluded as of the date the fiscal body adopts the resolution.

31 (b) A municipality may not adopt a resolution excluding the
32 municipality from government reorganization more than twelve
33 (12) months after the initial appointment of all commission
34 members.

35 Sec. 2. If a municipality that adopts a resolution under section 1
36 of this chapter is a third class city that appoints a member to the
37 commission under IC 36-12-3-4(5), the municipality ceases to be
38 represented on the commission as of the date of the resolution.

39 Sec. 3. (a) This section applies if a:

- 40 (1) third class city that jointly appointed a member to the
41 commission under IC 36-12-3-4(6); or
- 42 (2) town that jointly appointed a member to the commission

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under IC 36-12-3-4(7);
becomes an excluded municipality.

(b) The number of appointments under IC 36-12-3-4(6) or IC 36-12-3-4(7) must be recalculated by excluding the population of any excluded third class cities and towns. The remaining included third class cities and towns shall reduce the number of members appointed to the commission in accordance with the recalculation.

(c) If a member appointed to the commission is a resident of an excluded town or excluded city, the remaining included towns or cities may remove the member and appoint a new member to the commission. The new member must be appointed not more than thirty (30) days after the town or city notifies the commission of its exclusion from the reorganization.

Sec. 4. An affirmative vote of the majority of the total number of members who are appointed to the commission after the membership is adjusted as set forth in this chapter is required for the commission to take any action, including adopting a report.

Sec. 5. (a) Except as provided in subsection (b), an excluded municipality may not adopt an ordinance annexing territory:

(1) that is subject to a government reorganization under this article; and

(2) after approval of a local public question on the government reorganization by the majority of voters under IC 36-12-6.

(b) If the legislative body of an excluded municipality adopts an ordinance annexing territory that is subject to a government reorganization under this article before a local public question is approved under IC 36-12-6:

(1) the municipality may continue the annexation proceeding after the local public question is approved; and

(2) the annexation has the effect of expanding the excluded territory.

Chapter 5. Commission Responsibilities

Sec. 1. A commission shall study government reorganization and develop a government reorganization plan.

Sec. 2. If the plan proposes the government reorganization of a municipal corporation, service, or department, the plan must include the following charter provisions for the reorganized entity:

(1) A name.

(2) A form and structure.

(3) Functions and powers.

(4) Officers and their powers and duties.

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(5) Partisan election of elected officials, if any.

(6) For affected county and municipal legislative bodies, the following:

(A) Boundaries of legislative districts.

(B) A provision enabling the legislative body to alter boundaries of legislative districts.

(7) Boundaries of special service districts, if any are proposed.

(8) Corporate dissolution of any municipal corporation.

(9) Transition provisions, including transition provisions regarding the timing of the elections of officials.

(10) Procedures for amending the plan.

Sec. 3. The commission shall establish an Internet web site to provide the public with information concerning a government reorganization as set forth in this article.

Sec. 4. Not more than three (3) months after the initial appointment of all members of the commission, the commission shall do the following:

(1) Develop a proposed budget that is sufficient to allow the commission to complete the plan.

(2) Publish the proposed budget in a newspaper of general circulation throughout the county that has the commission.

(3) Post the proposed budget on the Internet web site established under section 3 of this chapter.

Sec. 5. Not more than six (6) months after the initial appointment of all members of the commission, the commission shall conduct at least one (1) public hearing to receive information and materials to assist the commission in preparing a plan.

Sec. 6. (a) Not more than nine (9) months after the initial appointment of all members of the commission, the commission shall submit to each appointing authority a preliminary report that specifies whether the commission proposes to reorganize any municipal corporations. The preliminary report may include a proposed plan.

(b) The commission shall:

(1) distribute the preliminary report to each public library in the county;

(2) post the preliminary report on the Internet web site established under section 3 of this chapter; and

(3) publish a notice in a newspaper of general circulation throughout the county that has the commission, notifying the public of where a copy of the preliminary report may be inspected or obtained.

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1 **Sec. 7. Not more than eighteen (18) months after the initial**
 2 **appointment of all members of the commission, the commission**
 3 **shall:**

4 **(1) submit a proposed plan to each:**

5 **(A) appointing authority; and**

6 **(B) public library in the county;**

7 **(2) post the proposed plan on the Internet web site established**
 8 **under section 3 of this chapter; and**

9 **(3) publish a notice in a newspaper of general circulation**
 10 **throughout the county that has the commission, notifying the**
 11 **public of where a copy of the proposed plan may be inspected**
 12 **or obtained.**

13 **Sec. 8. (a) Not more than thirty (30) days after the proposed plan**
 14 **is submitted and posted under section 7 of this chapter, the**
 15 **commission shall do the following:**

16 **(1) Receive written comments on the proposed plan from any**
 17 **person.**

18 **(2) Conduct at least one (1) public hearing to receive oral or**
 19 **written comments on the proposed plan from any person.**

20 **(b) After complying with subsection (a), the commission may**
 21 **revise the proposed plan. The committee shall disseminate the**
 22 **revised plan and publish a notice in accordance with section 7 of**
 23 **this chapter.**

24 **Sec. 9. (a) Except as provided in subsection (b), not more than**
 25 **twenty-one (21) months after the initial appointment of all**
 26 **members of the commission, the commission shall do the following:**

27 **(1) Submit a final report that contains the plan to each**
 28 **appointing authority.**

29 **(2) Post the final report including the plan on the Internet web**
 30 **site established under section 3 of this chapter.**

31 **(3) Certify a local public question on the approval of the plan**
 32 **to the county election board.**

33 **(b) If the committee makes a determination not to proceed with**
 34 **a government reorganization, the committee may only comply with**
 35 **subsection (a)(1) and (a)(2). The committee expires as set forth in**
 36 **section 10(3) of this chapter.**

37 **Sec. 10. A commission expires as follows:**

38 **(1) If a local public question submitted to the voters under this**
 39 **chapter is approved, the commission expires as provided in the**
 40 **transition provisions of the approved plan.**

41 **(2) If a local public question submitted to the voters under this**
 42 **chapter is rejected, the commission expires thirty (30) days**

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after the certification of the election results under IC 3-12-4-9.
 (3) If the commission makes a determination not to proceed with a government reorganization under section 9 of this chapter, the commission expires thirty (30) days after the final report is distributed to each appointing authority under section 9 of this chapter.

Chapter 6. Local Public Question

Sec. 1. The county election board shall place the public question on the ballot provided to all voters in the county at the earlier of the following:

(1) The first general election held after the certification of a public question on the approval of the plan.

(2) A special election if the county fiscal body and the fiscal body of each included city and town in the county adopt an ordinance to order a special election on the public question.

Sec. 2. (a) A local public question shall be placed on the ballot as set forth in IC 3-10-9-4. The commission shall write the public question and the explanatory text for the public question.

(b) In addition to the requirements of subsection (a), the ballot on the local public question must contain a brief description and summary of the plan as written by the commission.

Sec. 3. At least one (1) month before the election on the local public question, the commission shall:

(1) Distribute copies of the full text of the plan to each public library in the county.

(2) Publish a notice in a newspaper of general circulation throughout the county in which the commission is located notifying the public of the places in which a copy of the full text of the plan may be inspected or obtained.

(3) Post the full text of the plan on the Internet web site established under IC 36-12-5-3.

Sec. 4. If the local public question is approved by a majority of the voters voting on the local public question, the county election board shall file a copy of the certification prepared under IC 3-12-4-9 concerning the local public question on the government reorganization plan with the following:

(1) The circuit court clerk of the county.

(2) The county auditor.

Sec. 5. A statute outside this article that provides a procedure for consolidation, merger, dissolution, or incorporation does not apply to a government reorganization under this article.

Chapter 7. Effect of Reorganization

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1 **Sec. 1. Subject to sections 2 and 3 of this chapter, if a local public**
 2 **question is approved by a majority of the voters voting on the local**
 3 **public question, the following must occur in accordance with the**
 4 **transition provisions of the plan:**

5 (1) **Reorganized municipal corporations shall be established.**

6 (2) **Officials of reorganized municipal corporations shall be**
 7 **elected and sworn into their respective offices.**

8 (3) **Reorganized departments or services, if any, shall be**
 9 **established.**

10 **Sec. 2. (a) Except as provided in section 3 of this chapter, if a**
 11 **government reorganization requires an election of officers, the**
 12 **government reorganization takes effect when the officers of the**
 13 **new municipality are elected and qualified.**

14 (b) **If a government reorganization does not require an election**
 15 **of officers, the government reorganization takes effect in**
 16 **accordance with the transition provisions of the plan.**

17 **Sec. 3. (a) A government reorganization may not take effect**
 18 **during the year preceding a year in which a federal decennial**
 19 **census is conducted.**

20 (b) **If a government reorganization requires the election of**
 21 **officers of a reorganized municipal corporation, a government**
 22 **reorganization that would otherwise take effect during the year**
 23 **preceding a year in which a federal decennial census is conducted**
 24 **takes effect January 2 of the year in which a federal decennial**
 25 **census is conducted.**

26 (c) **If a government reorganization does not require the election**
 27 **of officers of a reorganized municipal corporation, a government**
 28 **reorganization that would otherwise take effect during the year**
 29 **preceding a year in which a federal decennial census is conducted**
 30 **takes effect on a date:**

31 (1) **specified in the transition provisions of the reorganization**
 32 **plan; and**

33 (2) **after January 1 of the year in which a federal decennial**
 34 **census is conducted.**

35 **Sec. 4. Upon the corporate dissolution of a municipal corporation**
 36 **under this article, the following apply for purposes of all state and**
 37 **federal licensing and regulatory laws, statutory entitlements, gifts,**
 38 **grants-in-aid, governmental loans, or other governmental**
 39 **assistance under state or federal statutes, rules, or regulations:**

40 (1) **The entire geographic area and population of a reorganized**
 41 **municipal corporation that is established under this chapter**
 42 **shall be used when calculating and determining the**

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distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

(C) Grants-in-aid.

(D) Loans.

(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in a newspaper of general circulation throughout the county at least thirty (30) days before the public hearing takes place, the executive of a reorganized municipal corporation that is established under this chapter shall determine and designate to the appropriate state or federal agency those:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if this designation was previously required of any municipal corporation that is reorganized under this chapter.

Sec. 5. (a) A reorganized municipal corporation established under this article may exercise any constitutional or statutory right, power, privilege, immunity, or responsibility of any municipal corporation that was reorganized, if that right, power, privilege, immunity, or responsibility is as follows:

(1) It exists on the day on which the reorganized municipal corporation comes into existence.

(2) It is authorized or imposed after the reorganized municipal corporation is established on a municipal corporation of the kind that was reorganized to form the reorganized municipal corporation.

(3) If the reorganized municipal corporation is a municipality, it is authorized or imposed after the reorganized municipal corporation is established upon a municipality of the same class that the reorganized municipality belongs to as a result of the combined populations of any included municipalities.

(4) It is expressly authorized for or imposed upon reorganized municipal corporations.

(b) Rights, powers, privileges, or immunities exercised by a reorganized municipal corporation under subsection (a) are authorized for a reorganized municipal corporation despite the

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1 repeal or amendment of the statutes on which the rights, powers,
2 privileges, or immunities are based, unless those statutes are
3 expressly repealed or amended for reorganized municipal
4 corporations.

5 Sec. 6. When a reorganized municipal corporation is established
6 under this article, the following occur:

7 (1) Unless specified otherwise in the government
8 reorganization plan, the ordinances, rules, resolutions, bylaws,
9 and regulations of each of the included municipal
10 corporations:

11 (A) remain in force within the territory to which they applied
12 before the reorganization; and

13 (B) continue in force until amended or repealed by the
14 legislative body or an administrative body of the reorganized
15 municipal corporation.

16 (2) Pending actions that involve any municipal corporation
17 that is reorganized shall be prosecuted to final judgment and
18 execution, and judgments rendered in those actions may be
19 executed and enforced against the reorganized municipal
20 corporation without any change of the name of the plaintiff or
21 defendant.

22 Sec. 7. Dissolution of a township government under this article
23 does not affect the geographical boundaries of the township.

24 Sec. 8. (a) On the date the formation of a new municipal
25 corporation takes effect, all money in the funds of each of the
26 included municipal corporations is transferred to the reorganized
27 municipal corporation. The reorganized municipal corporation:

28 (1) shall deposit the money in its funds that most closely
29 correspond to the funds of the included municipal
30 corporations; and

31 (2) may use the money to pay its operational and capital costs
32 for the balance of the calendar year.

33 (b) After the date on which the formation of a new municipal
34 corporation takes effect, the reorganized municipal corporation is
35 entitled to receive all distributions of taxes and other revenue that
36 would have been made to the included municipal corporations if
37 the reorganization had not occurred. The reorganized municipal
38 corporation shall deposit the money in its funds that correspond
39 most closely to the funds of the included municipal corporations
40 into which the taxes or other revenue would have been deposited
41 if the reorganization had not occurred.

42 Sec. 9. (a) This section applies if a government reorganization

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requires the election of officers of the reorganized municipal corporation.

(b) If the officers of a reorganized municipal corporation are elected and qualified before July 1 of a year, the officers shall:

(1) obtain from the budget agency approval under IC 36-1.3 of:

(A) a budget;

(B) an ad valorem property tax levy for debt service obligations payable under IC 6-1.1-2-9;

(C) an ad valorem property tax levy for public safety costs under IC 6-1.1-2-10, if appropriate; and

(D) a property tax rate;

subject to subsection (d);

(2) fix the annual budget under IC 36-3.1-3;

(3) impose a property tax levy for debt service under IC 6-1.1-2-9;

(4) impose a property tax levy for public safety costs under IC 6-1.1-2-10, if appropriate; and

(5) take any action necessary to ensure the collection of special assessments and other revenue;

for the reorganized municipal corporation for the ensuing budget year.

(c) If the officers of a reorganized municipal corporation are elected and qualified after June 30 of a year:

(1) the tax levies and other revenue of the included municipal corporations:

(A) are collected for the ensuing budget year in the same manner the collections would have been made if the reorganization had not occurred; and

(B) are considered for all purposes the tax levy and other revenue of the reorganized municipal corporation; and

(2) the officers of the reorganized municipal corporation shall:

(A) fund the corporation for the ensuing budget year using the combined tax levies and other revenue of the included municipal corporations; and

(B) take the actions described in subsection (b)(1) through (b)(4) for the reorganized municipal corporation for the budget year that next follows the ensuing budget year.

(d) The budget agency may not set an ad valorem property tax levy, budgets, or expenditure limits for a reorganized municipal corporation under subsection (b) in an amount less than the combined ad valorem property tax levies, budget, or expenditure limits of the entities that were reorganized to form the reorganized

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1 **municipal corporation.**

2 **Sec. 10. (a) This section applies if, as a result of a government**
 3 **reorganization, municipal corporations consolidate or merge.**

4 **(b) On the date on which a reorganized municipal corporation**
 5 **takes effect:**

6 **(1) the included municipal corporations are abolished as**
 7 **separate entities;**

8 **(2) the territory of the reorganized municipal corporation**
 9 **includes all the territory that comprised the included municipal**
 10 **corporations before the reorganization;**

11 **(3) the agencies of the included municipal corporations are**
 12 **abolished;**

13 **(4) the functions of the abolished agencies are assigned to**
 14 **agencies of the reorganized municipal corporation;**

15 **(5) the:**

16 **(A) property;**

17 **(B) records;**

18 **(C) personnel;**

19 **(D) rights; and**

20 **(E) liabilities;**

21 **related to the functions of the abolished agencies are assigned**
 22 **to agencies of the reorganized municipal corporation; and**

23 **(6) any bonds and other indebtedness of, or assumed by, the**
 24 **included municipal corporations are transferred to the**
 25 **reorganized municipal corporation.**

26 **SECTION 79. THE FOLLOWING ARE REPEALED [EFFECTIVE**
 27 **JULY 1, 2005]: IC 6-1.1-17; IC 6-1.1-18.**

28 **SECTION 80. THE FOLLOWING ARE REPEALED [EFFECTIVE**
 29 **JANUARY 1, 2006]: IC 6-1.1-10-9; IC 6-1.1-10-10; IC 6-1.1-10-11;**
 30 **IC 6-1.1-10-12; IC 6-1.1-10-13; IC 6-1.1-10-14; IC 6-1.1-10-15.5;**
 31 **IC 6-1.1-10-16; IC 6-1.1-10-16.5; IC 6-1.1-10-18; IC 6-1.1-10-18.5;**
 32 **IC 6-1.1-10-20; IC 6-1.1-10-23; IC 6-1.1-10-24; IC 6-1.1-10-25;**
 33 **IC 6-1.1-10-26; IC 6-1.1-10-27; IC 6-1.1-10-28; IC 6-1.1-10-29;**
 34 **IC 6-1.1-10-29.3; IC 6-1.1-10-29.5; IC 6-1.1-10-30; IC 6-1.1-10-30.5;**
 35 **IC 6-1.1-10-31; IC 6-1.1-10-31.1; IC 6-1.1-10-31.4; IC 6-1.1-10-31.5;**
 36 **IC 6-1.1-10-31.6; IC 6-1.1-10-31.7; IC 6-1.1-10-32; IC 6-1.1-10-33;**
 37 **IC 6-1.1-10-34; IC 6-1.1-10-35; IC 6-1.1-10-36; IC 6-1.1-10-36.3;**
 38 **IC 6-1.1-10-36.5; IC 6-1.1-10-37; IC 6-1.1-10-39; IC 6-1.1-10-40;**
 39 **IC 6-1.1-10-41; IC 6-1.1-10-42; IC 6-1.1-10-43; IC 6-1.1-10.1;**
 40 **IC 6-1.1-12-1; IC 6-1.1-12-2; IC 6-1.1-12-3; IC 6-1.1-12-4;**
 41 **IC 6-1.1-12-5; IC 6-1.1-12-6; IC 6-1.1-12-7; IC 6-1.1-12-8;**
 42 **IC 6-1.1-12-13; IC 6-1.1-12-14; IC 6-1.1-12-15; IC 6-1.1-12-17;**

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1 IC 6-1.1-12-17.4; IC 6-1.1-12-17.5; IC 6-1.1-12-18; IC 6-1.1-12-19;
 2 IC 6-1.1-12-20; IC 6-1.1-12-21; IC 6-1.1-12-22; IC 6-1.1-12-23;
 3 IC 6-1.1-12-24; IC 6-1.1-12-25; IC 6-1.1-12-25.5; IC 6-1.1-12-26;
 4 IC 6-1.1-12-27.1; IC 6-1.1-12-28; IC 6-1.1-12-28.5; IC 6-1.1-12-29;
 5 IC 6-1.1-12-30; IC 6-1.1-12-31; IC 6-1.1-12-33; IC 6-1.1-12-34;
 6 IC 6-1.1-12-35.5; IC 6-1.1-12-36; IC 6-1.1-12-37; IC 6-1.1-12-38;
 7 IC 6-1.1-12-40; IC 6-1.1-12.1; IC 6-1.1-12.2; IC 6-1.1-12.3;
 8 IC 6-1.1-18.5; IC 6-1.1-19; IC 6-1.1-20; IC 6-1.1-20.8; IC 6-1.1-20.9;
 9 IC 6-1.1-21-3; IC 6-1.1-21-4; IC 6-1.1-21-5; IC 6-1.1-21-5.5;
 10 IC 6-1.1-21-7; IC 6-1.1-21-8; IC 6-1.1-21-10.5; IC 6-1.1-21-11;
 11 IC 6-1.1-21.2; IC 6-1.1-42; IC 6-3.5-6-13; IC 6-3.5-7-25;
 12 IC 6-3.5-7-26; IC 12-19-1.5.

13 SECTION 81. [EFFECTIVE JULY 1, 2004] (a) After June 30,
 14 2005, a reference to IC 6-1.1-17 or IC 6-1.1-18 (both repealed by
 15 this act) shall be treated as a reference to IC 36-3.1. After June 30,
 16 2005, any reference to the department of local government
 17 finance that is related to these functions shall be treated as a
 18 reference to the budget agency.

19 (b) After December 31, 2005, a reference to IC 6-1.1-18.5,
 20 IC 6-1.1-18.6, IC 6-1.1-19, or IC 6-1.1-20.9 (all as repealed by this
 21 act) shall be treated as a reference to the corresponding provision
 22 of IC 36-3.1, as added by this act. After December 31, 2005, any
 23 reference to the department of local government finance that is
 24 related to these functions shall be treated as a reference to the
 25 budget agency. However, any proceeding related to bonds or leases
 26 that is pending under IC 6-1.1-18.5-8 or IC 6-1.1-19-8 and
 27 IC 6-1.1-20.9 on December 31, 2005, shall be completed under
 28 IC 6-1.1-18.5-8 or IC 6-1.1-19-8 and IC 6-1.1-20.9 as if these
 29 provisions had not been repealed. However, the budget agency
 30 shall take any action required by law to be taken by the
 31 department of local government finance. A bond, lease, or
 32 controlled project that is approved under IC 6-1.1-18.5-8 or
 33 IC 6-1.1-19-8 and IC 6-1.1-20.9 shall be treated after December 31,
 34 2005, as if it had been approved under IC 36-1.3.

35 (c) Except as provided in IC 6-1.1-2, after December 31, 2005,
 36 any reference in any law or rule to property taxes, property tax
 37 levies, or property tax rates shall be treated as a reference to
 38 money available to a political subdivision and budgeted under
 39 IC 36-1.3, as added by this act.

40 (d) After June 30, 2005, any reference to the department of local
 41 government finance in a law that requires the collection of any
 42 data or the conduct of any studies related to the matters described

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1 in subsections (a) through (c) shall be treated as a reference to the
2 budget.

3 (e) The legislative council shall provide for the introduction of
4 legislation in the 2005 session of the general assembly to resolve
5 any conflicts between this act and any other law and to make any
6 other technical corrections necessary to conform the laws to this
7 act.

8 SECTION 82. [EFFECTIVE DECEMBER 1, 2005] (a) For
9 purposes of IC 6-2.5, as amended by this act, all transactions,
10 except the furnishing of public utility, telephone, or cable television
11 services and commodities by retail merchants described in
12 IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11, shall be considered as
13 having occurred after November 30, 2005, to the extent that
14 delivery of the property or services constituting selling at retail is
15 made after that date to the purchaser or to the place of delivery
16 designated by the purchaser. However, a transaction shall be
17 considered as having occurred before December 1, 2005, to the
18 extent that the agreement of the parties to the transaction is
19 entered into before December 1, 2005, and payment for the
20 property or services furnished in the transaction is made before
21 December 1, 2005, notwithstanding the delivery of the property or
22 services after November 30, 2005.

23 (b) With respect to a transaction constituting the furnishing of
24 public utility, telephone, or cable television services and
25 commodities, only transactions for which the charges are collected
26 on original statements and billings dated after December 31, 2005,
27 shall be considered as having occurred after November 30, 2005.

28 (c) This SECTION expires July 1, 2006.

29 SECTION 83. An emergency is declared for this act.

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